

RR-000000000000000000
Women's Political Legislative
Research Commission
Records

DATE	ISSUED TO

NOT TO BE REMOVED
FROM

UNC LAW LIBRARY

PL000000000000000000
Open/Closed: Open
Reserve: Closed
Due Date:

LEGISLATIVE RESEARCH COMMISSION

REVENUE LAWS



**REPORT TO THE
1985 GENERAL ASSEMBLY
OF NORTH CAROLINA**

A LIMITED NUMBER OF COPIES OF THIS REPORT IS AVAILABLE
FOR DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY:

ROOM 2126, 2226
STATE LEGISLATIVE BUILDING
RALEIGH, NORTH CAROLINA 27611
TELEPHONE: (919) 733-7778

OR

ROOM 500
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTH CAROLINA 27611
TELEPHONE: (919) 733-9390

TABLE OF CONTENTS

	<u>Page</u>
Letter of Transmittal.....	1
Legislative Research Commission Membership List.....	2
Preface.....	3
Committee Proceedings.....	6
Committee Findings.....	11
Committee Endorsements.....	14
Legislative Proposals.....	16
1. AN ACT TO ELIMINATE DOUBLE TAXATION OF INCOME IN RESPECT OF A DECEDEDENT.....	17
2. AN ACT TO EXEMPT MONEY FROM THE TAX ON INTANGIBLE PERSONAL PROPERTY AND TO REIMBURSE LOCAL GOVERNMENTAL UNITS FOR THE RESULTING REVENUE LOSS.....	22
3. AN ACT TO SIMPLIFY THE ALCOHOLIC BEVERAGE TAX STATUTES.....	30
4. AN ACT TO ALLOW INDIVIDUALS A FIVE-YEAR CARRYFORWARD OF ANY UNUSED CHARITABLE DEDUCTION.....	60
5. AN ACT TO CONFORM THE STATE DEPENDENT CARE CREDIT TO THE FEDERAL CREDIT REGARDING CARE FOR A DISABLED DEPENDENT OR SPOUSE AND THE MAXIMUM AMOUNT OF EMPLOYMENT-RELATED EXPENSES ELIGIBLE FOR THE CREDIT.....	65
6. AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DETERMINING CERTAIN TAXABLE INCOME AND TAX EXEMPTIONS.....	70
7. AN ACT TO EXTEND THE INCOME TAX EXCLUSION FOR CERTAIN EMPLOYEE DEATH BENEFITS TO SIMILAR DEATH BENEFITS OF SELF-EMPLOYED INDIVIDUALS.....	73
8. AN ACT TO ALLOW CERTAIN MEMBERS OF THE ARMED FORCES WHO ARE ON EXTENDED ACTIVE DUTY A LONGER PERIOD OF TIME IN WHICH TO ROLL OVER GAIN ON THE SALE OF THEIR PRINCIPAL RESIDENCE.....	76

9.	AN ACT TO ALLOW A DIVORCED OR SEPARATED PARENT TO CLAIM AN INCOME TAX DEDUCTION FOR EXPENSES FOR MEDICAL CARE FOR HIS CHILD, REGARDLESS WHETHER THE PARENT PROVIDED OVER ONE-HALF HIS CHILD'S SUPPORT FOR THE TAXABLE YEAR.....	79
10.	AN ACT TO TRANSFER THE RESPONSIBILITY FOR ISSUING BINGO LICENSES AND ESTABLISHING AUDIT PROCEDURES FOR BINGO ACCOUNTS FROM THE DEPARTMENT OF REVENUE TO CITIES AND COUNTIES.....	81
11.	AN ACT TO MAKE CLEAR THAT THE PRIVILEGE LICENSE TAX ON PERSONS ENGAGED IN THE BUSINESS OF SELLING KNIVES AND OTHER WEAPONS DOES NOT APPLY TO PERSONS ENGAGED IN THE BUSINESS OF SELLING SLINGSHOTS.....	84
12.	AN ACT TO CLARIFY THE SCOPE OF THE INHERITANCE TAX EXEMPTION FOR PROPERTY PASSING TO A CHARITABLE, RELIGIOUS, OR EDUCATIONAL ORGANIZATION OR FOR A CHARITABLE, RELIGIOUS, OR EDUCATIONAL PURPOSE.....	87
13.	AN ACT TO REMOVE THE REPORTING REQUIREMENTS FOR ESTATES OF LESS THAN ONE HUNDRED THOUSAND DOLLARS IN VALUE.....	90
14.	AN ACT TO ELIMINATE THE NECESSITY OF OBTAINING AN INHERITANCE TAX WAIVER TO TRANSFER OR DELIVER CERTAIN SECURITIES DECLARED AND INTEREST ACCRUING AFTER THE DECEDENT'S DEATH.....	93
15.	AN ACT TO ALLOW SPOUSES TO SHARE THEIR ANNUAL GIFT TAX EXCLUSIONS ONLY IF BOTH SPOUSES ARE RESIDENTS OF NORTH CAROLINA AND TO MAKE THAT CONSENT TO SHARE ANNUAL EXCLUSIONS IRREVOCABLE.....	96
16.	AN ACT MAKING A TECHNICAL CORRECTION TO THE REVENUE LAWS.....	99
17.	AN ACT TO REPEAL THE SALES TAX EXEMPTION FOR ICE.....	101
18.	AN ACT TO TAX ALL HORSES EXCEPT DRAFT HORSES AT THE GENERAL STATE AND LOCAL SALES TAX RATES.....	104
19.	AN ACT TO INCREASE THE PARTIAL SALES TAX EXEMPTION FOR FUNERAL EXPENSES TO ACCOUNT FOR INFLATION.....	108
20.	AN ACT REGARDING A CERTIFICATE OF RESALE.....	111
21.	A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO STUDY THE REVENUE LAWS OF NORTH CAROLINA.....	116

Appendices

A. Authorizing Legislation	
Chapter 905.....	A-1
House Joint Resolution 16.....	A-6
House Bill 746.....	A-8
House Bill 1250.....	A-9
B. Revenue Laws Study Committee Membership and Staff.....	B-1
C. Referred Bills	
Senate Bill 156.....	C-1
Senate Committee Substitute for Senate Bill 156.....	C-2
House Bill 1002.....	C-3
D. Speakers at Committee Meetings.....	D-1

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



December 13, 1984

TO THE MEMBERS OF THE 1985 GENERAL ASSEMBLY:

The Legislative Research Commission submits to you for your consideration its final report on the revenue laws of this State. This report was prepared by the Legislative Research Commission's Revenue Laws Study Committee pursuant to Chapter 905 of the 1983 Session Laws.

Respectfully submitted,

A handwritten signature in black ink that reads "W. Craig Lawing".
W. Craig Lawing

A handwritten signature in black ink that reads "Liston B. Ramsey".
Liston B. Ramsey

Cochairmen

Legislative Research Commission

1983-1985

LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

House Speaker Liston B. Ramsey	Senate President Pro Tempore
Cochairman	W. Craig Lawing, Cochairman
Representative Chris S. Barker, Jr.	Senator William N. Martin
Representative John T. Church	Senator Helen R. Marvin
Representative Bruce Ethridge	Senator William W. Staton
Representative John J. Hunt	Senator Joseph E. Thomas
Representative Margaret Tennille	Senator Russell Walker

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has ten additional members, five appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly or either house thereof, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

Chapter 905 of the 1983 Session Laws authorizes the Legislative Research Commission to study various topics. The Commission undertook studies of many of the topics listed in that Chapter and grouped those studies, along with a few studies authorized by other legislation, into ten broad categories. The Commission assigned each of its members the responsibility for supervising the studies in one of these categories. Committees consisting of members of the General Assembly and the public were appointed by the Commission cochairmen pursuant to G.S. 120-30.10(b) and (c) to make these studies. Cochairmen, one from each house of the General Assembly, were designated for each committee.

The study of the revenue laws is one of the studies authorized by Chapter 905 of the 1983 Session Laws. Section 1, subdivision (1) of that Chapter authorizes the Legislative Research Commission to continue its study of the revenue laws begun in 1977 and to study House Bills 746 and 1250, both of which were introduced in the 1983 Session by Representative T. Clyde Auman. House Bill 746 proposes to change the method of appraising a tract of land that has been subdivided into lots, and House Bill 1250 proposes to repeal the tax on intangible personal property.

Because Chapter 905 is a compilation of many joint resolutions and bills authorizing the Legislative Research Commission to study a particular topic, Section 1 of Chapter 905 authorizes the Commission to consider the original bill or resolution proposing a particular study in determining the scope of the study. House Joint Resolution 16, introduced by Representative Daniel T. Lilley in the 1983 Session, is the originating legislation for the study of the revenue laws. That resolution gives the Research Commission's study of the revenue laws a very broad scope, stating that the "Commission may review the revenue laws of this State to determine which laws need clarification, technical amendment, repeal, or other change to make the laws as concise, intelligible, administratively responsive, and efficient as is reasonably practicable." Chapter

905, House Joint Resolution 16, and House Bills 746 and 1250 are attached as Appendix A. This report does not discuss House Bill 746 because that bill was referred to the Property Tax System Study Committee before the 1984 Legislative Session. House Bill 1250 is also not specifically discussed in this report because the study committee considered it before the 1984 Session.

The Legislative Research Commission grouped the study of the revenue laws in the category "Revenue" under the direction of Senator William N. Martin. The cochairs of the Revenue Laws Study Committee established by the Research Commission are Senator Marshall A. Rauch and Representative Daniel T. Lilley. The full membership of the study committee, the membership of the committee's subcommittee, and the staff assigned to the committee is listed in Appendix B of this report. A copy of this report as well as the committee's interim report is filed in the Legislative Library. A committee notebook containing the committee and subcommittee minutes and all information presented to the committee and the subcommittee is also filed in the Legislative Library.

Committee Proceedings

The Legislative Research Commission's Revenue Laws Study Committee met eleven times; six meetings, as well as a joint meeting with the Property Tax System Study Committee, were held before the 1984 Legislative Session, and five meetings were held after that session. In addition to these meetings, the Revenue Laws Study Committee's Subcommittee on Sales and Use Taxes had three meetings, all of which were held after the 1984 Session. Both before and after the 1984 Session, the committee devoted approximately one-half of its time to the study of the general tax structure in North Carolina and the remaining one-half of its time to the study of specific tax problems. The committee's sales tax subcommittee likewise divided its time between a general discussion of the equity of the current sales tax structure and a discussion of specific problems and proposals.

The committee made an interim report to the 1984 Session that included ten legislative proposals, eight new bills or resolutions and two proposed committee substitutes for pending legislation. The interim report, which includes an explanation and a fiscal note for each of the ten proposals, is on file in the Legislative Library. The proposals contained in the interim report are not listed or discussed in this report.

Since the 1984 Session, the committee has continued to study the tax on intangible personal property and the property tax on business inventories, has undertaken a recodification of the

alcoholic beverage tax statutes, and has considered numerous specific requests of taxpayers and tax administrators. The committee has also studied House Bill 1002 and Senate Bill 156 of the 1983 Session, which were referred to the study committee by the House and Senate Finance Committees respectively. The committee referred House Bill 1002, An Act To Allow Local Boards Of Education To Obtain Refunds Of Sales And Use Taxes, to its sales tax subcommittee. The subcommittee recommended that the bill continue to be studied, and the full committee adopted this recommendation. The committee discussed Senate Bill 156, An Act To Increase The Amount Of Federal Retirement Pay Excluded From Gross Income, and the Senate committee substitute for that bill at length and decided to take no action on the bill. A copy of House Bill 1002, Senate Bill 156, and the Senate committee substitute for Senate Bill 156 are contained in Appendix C.

As part of its study of the intangibles and inventory taxes, the committee held a summit meeting of interested taxpayers and officials to hear proposals concerning these taxes.

Approximately one hundred groups and individuals were invited to present their ideas to the committee at the summit meeting, particularly their ideas on how to compensate for any loss of revenue created by granting some type of relief from intangibles or inventory taxes. Fifteen people presented their views on these issues at the summit meeting. A list of the speakers at the meeting and a copy of their remarks is filed in the committee notebook with the committee minutes of September 26, 1984.

As in the past, the committee proved to be an excellent forum for taxpayers and tax administrators to propose changes in the revenue laws. Numerous taxpayers either appeared before the committee or wrote to the committee and suggested changes in the revenue laws. Topics brought to the attention of the committee by concerned taxpayers include:

- (1) Differences in local occupancy taxes;
- (2) Sales tax on funeral expenses;
- (3) Property tax on transshipped goods held in a private warehouse as opposed to a public warehouse;
- (4) The dependent care income tax credit;
- (5) The adjusted gross income limitation on certain charitable contributions;
- (6) Totten trusts; and
- (7) Sales tax on fuel used by railroads.

The committee made recommendations on some of these issues, such as the dependent care credit, and took no action on others, such as Totten trusts.

The Department of Revenue also made numerous proposals to the Committee to improve the administration of the revenue laws and to make the laws easier for taxpayers to understand. The committee adopted all but one of the Department's proposals, deciding not to deny an inheritance tax deduction for interest paid on inheritance taxes due. The recommendations of the Department of Revenue are contained in Legislative Proposals 6 through 16 of this report.

In its three meetings, the sales tax subcommittee made a thorough study of the rationale for each sales tax exemption or preferential sales tax rate, considered the sales tax problems brought to the committee's attention by concerned taxpayers and referred to the subcommittee, and considered House Bill 1002 of the 1983 Session. As part of its study of sales and use taxes, the subcommittee explored the idea of incorporating the local sales taxes into the state sales tax, repealing the local sales taxes, and distributing the increase in the State sales tax to local governments. The subcommittee also explored the idea of providing a refundable income tax credit to low income taxpayers for the estimated amount of sales tax paid by them on food.

The subcommittee's recommendations to the full committee are contained in the subcommittee's report to the full committee, which is filed in the committee notebook. The full committee adopted several of the subcommittee's recommendations and endorsed the concept, but not the subcommittee's specific proposal, for some of the others. Legislative Proposals 17 through 20 of this report were recommended by the subcommittee and adopted by the full committee. The two concepts presented in this report under the heading "Committee Endorsements" originated in the subcommittee. The information presented in this report under the heading "Committee Findings" was prepared by the subcommittee.

Appendix D lists the speakers at the committee meetings, including the summit meeting, and the subject of their presentation. The list does not include personnel in the

Department of Revenue, who explained the Department's proposals and frequently answered questions raised by committee members on various subjects. The committee expresses its appreciation for the assistance of Mr. Mark Lynch, Secretary of Revenue, Mr. Jim Senter, Deputy Secretary of Revenue, and the staff of the Revenue Department.

Following are the findings and recommendations of the committee, separated into three categories. The first category, "Committee Findings", consists of material presented to the General Assembly for informational purposes only. The second category, "Committee Endorsements", consists of committee recommendations that are not accompanied by legislation. The committee endorses the concepts described in this section of the report, but did not have adequate time to study the concepts thoroughly and prepare bills implementing the concepts. The third category, "Proposed Legislation", consists of the legislation proposed by the committee. Each legislative proposal is followed by an explanation and, if the recommendation is a proposed bill, a report on its fiscal effect.

Although the proposed legislation and committee recommendations do not include a proposal or recommendation on inventory taxes, this omission does not indicate a lack of concern about this issue by the committee. Indeed, the committee is very concerned about inventory taxes and the effect these taxes have on business recruiting and the business climate in North Carolina.

COMMITTEE FINDINGS

In examining the structure of the State sales and use taxes, the committee found that the two groups of items that are subject to State sales and use taxes at rates lower than 3% and that have a stated maximum tax per article have been treated differently over the years. Both the tax rate and the maximum tax payable on the sale of an item in the group that includes motor vehicles has been periodically increased over the years, while the tax rate and maximum tax has not been increased for the group of items that includes farm machinery and mill machinery since the group was created. Under G.S. 105-164.4(1), motor vehicles, boats, aircraft, and railroad cars are subject to sales tax at a rate of 2%, with a maximum tax of \$300.00 per article; whereas, farm machinery, mill machinery, and the other items listed in subparts g. through q. of that subdivision are subject to a tax rate of 1%, with a maximum tax of \$80.00 per article.

The special category for motor vehicles and other conveyances was created in 1955 by Chapter 1313 of the Session Laws. When this category was created it consisted only of motor vehicles and airplanes; boats and railroad cars have since been added. The special category was created to lessen the impact of the repeal of the \$15.00 per article maximum tax that applied to every article before 1955.

The special category for certain machinery and equipment was created in 1961 by Section 2 of Chapter 826 of the 1961 Session Laws, which, among the many changes it made to the sales and use

tax law, eliminated the wholesale tax. When this special category was created, only subparts g. through l. were included. The items in these subparts had either been subject only to the wholesale tax rate of 1/20th of 1% (subparts g., h., and i.) or were exempt from sales tax (subparts j., k., and l.). Like the special category for motor vehicles, therefore, the special category for certain equipment and machinery was created to lessen the impact of a change in the sales tax structure. The special category for certain machinery and equipment was created to lessen the impact of eliminating the wholesale tax as well as several exemptions. Why a rate of 1% with a maximum of \$80.00 was chosen is not clear. It was probably selected because the same preferential rate of 1% and per article maximum tax of \$80.00 had been applied to motor vehicles and airplanes in 1955.

Since its enactment in 1955, the 1%, \$80.00 limitation on motor vehicles, airplanes, and the other conveyances that have been added to this group has been increased, but the 1%, \$80.00 limitation applicable to certain machinery and equipment has not. The same act that created the new 1%, \$80.00 per article category for certain machinery and equipment increased the tax rate on motor vehicles and airplanes from 1% to 1½% and increased the per article tax limitation from \$80.00 to \$120.00. The tax rate on motor vehicles, airplanes, and the other enumerated conveyances added after 1961 was subsequently increased from 1½% to 2% in 1969 by Section 5 of Chapter 1075 of the 1969 Session Laws, and the \$120.00 limitation was subsequently increased to \$300.00 by Chapter 713 of the 1983 Session Laws. The 1%, \$80.00 category

for certain machinery and equipment, however, has remained the same since 1961, except for the addition of more items, such as bulk tobacco barns.

If a proposal were enacted, effective July 1, 1985, to increase the maximum per article tax on the equipment and machinery in the special category from \$80.00 to \$300.00, which is the current per article maximum on motor vehicles, General Fund tax revenue would increase by \$2.4 million for 1985-86, based on 11 collection months, and \$2.8 million for 1986-87. To adjust the \$80.00 limit for inflation would require an increase from \$80.00 to \$279.00.

COMMITTEE ENDORSEMENTS

The committee endorses the following proposals, but does not have specific legislation for these proposals.

1. The committee endorses the concept of providing a refundable income tax credit to individuals who are at or below the federal poverty level for the estimated amount of sales tax paid by them on food. Because the inclusion of food in the sales tax base contributes greatly to the regressive impact of sales taxes, allowing an income tax credit for sales tax on food would ameliorate this undesirable effect of the State's current sales tax structure by reducing the sales tax burden of low-income citizens. The committee endorses the idea of a refundable income tax credit rather than repeal of the sales tax on food because the repeal of the tax on food for everyone would benefit taxpayers who do not need relief from sales tax on food, would unnecessarily reduce General Fund tax revenue, and would create numerous administrative problems for retail merchants and the Department of Revenue. As a refundable credit, an individual who qualifies for the credit but has no income tax liability would nevertheless receive the full amount of the credit.

If legislation implementing this concept were enacted, with an effective date of taxable years beginning on or after January 1, 1985, General Fund tax revenue would decrease by \$16-\$21 million for 1985-86 and \$17-\$22 million for 1986-87. This estimate assumes that all of the approximately 850,000 people in North Carolina who meet the federal poverty guidelines will apply for the credit.

2. The committee endorses the concept of converting the local option sales and use taxes into State sales and use taxes and distributing the revenue from 1½¢ of the State taxes to counties and municipalities in accordance with the same methods that the 1¢ and the ½¢ local option sales and use taxes are currently distributed. Local option sales and use taxes create many administrative problems, particularly when the local rate is not uniform throughout the State, and allow some use tax revenue to escape collection. Consolidating the local sales and use taxes with the State sales and use taxes will eliminate the administrative problems with local sales and use taxes and produce more tax revenue by closing the gap on use tax collections.

The enactment of legislation implementing this proposal, effective July 1, 1985, would have the following fiscal effects:

- (1) Tax revenue would increase by approximately \$9 million as a result of the extension of the ½¢ local option tax to the four counties (Alamance, Burke, Durham, and Person) that are not presently levying the ½¢ tax.
- (2) Tax revenue would increase approximately \$6.5 million for 1985-86, based on 11 collection months, and \$7.7 million for 1986-87 as a result of closing the gap on use tax collections.
- (3) Administrative costs would be reduced.
- (4) Unless an adjustment is made, revenue would increase, in a presently undetermined amount, as a result of applying the higher State sales tax rate to the sale of items now exempt from local sales tax but subject to State sales tax.

LEGISLATIVE PROPOSALS

The committee recommends the following legislation to the 1985 General Assembly. The committee's legislative proposals consist of twenty bills and one joint resolution. The proposals cover a broad range of topics, including a recodification of the alcoholic beverage license and excise tax statutes, a repeal of the intangibles tax on money, and numerous income tax and sales tax proposals. Each proposal is followed by an explanation of the proposal and, if the proposal is a bill, a fiscal note indicating the anticipated revenue gain or loss resulting from the proposal.

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE DOUBLE TAXATION OF INCOME IN RESPECT OF A
DECEDENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147 is amended by adding a new subdivision to read:

"(29) The amount of inheritance tax attributable to an income in respect of a decedent item required to be included in gross income under G.S. 105-142.1(a). The amount of inheritance tax attributable to an income in respect of a decedent item is (i) the amount by which the inheritance tax paid under Article 1 of this Chapter on property transferred to a beneficiary by a decedent exceeds the amount of inheritance tax that would have been payable by the beneficiary if the income in respect of a decedent item had not been included in the property transferred to the beneficiary by the decedent, (ii) multiplied by a fraction, the numerator of which is the amount required to be included in gross income for the taxable year under G.S. 105-142.1(a) and the denominator of which is the total amount of income in respect of a decedent items transferred to the beneficiary by the decedent. For an estate or trust, the deduction allowed by this subdivision shall be computed by excluding from the gross income of the estate or trust the portion, if any, of the items of income in respect of a decedent

that are properly paid, credited, or to be distributed to the beneficiaries during the taxable year.

The Secretary of Revenue may provide to a beneficiary of an income in respect of a decedent item any information contained on an inheritance tax return that the beneficiary needs to compute the deduction allowed by this subdivision."

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1985.

Explanation of Proposal 1:

This bill amends G.S. 105-142.1, concerning income in respect of a decedent, to provide an income tax deduction for the amount of inheritance tax paid that is attributable to the transfer of the right to the income. The bill conforms State law to federal on this matter and eliminates the taxation of certain property under both the inheritance and the income tax.

When a person dies having property that represents a right to future income, such as an installment note or a deferred compensation agreement, the transfer of this right to income is subject to inheritance tax. The income that is paid after the decedent's death to the individual that received the right to this income, referred to as income in respect of a decedent, is included in the recipient's gross income and is subject to income tax. Unlike federal law, North Carolina law does not allow the recipient of the income a deduction from gross income for the amount of inheritance tax paid on the property that represents the right to the income. Thus, North Carolina law taxes certain property twice that is taxed only once under federal law.

The following example illustrates the application of this proposed income tax deduction:

Assume the following facts: Individual "A" receives property from the decedent having a value of \$200,000, including I.R.D. (income in respect of a decedent) items of \$50,000. Individual "B" receives property having a value of \$700,000, including I.R.D. items of \$200,000. "A" has an inheritance tax of \$8,150, of which \$2,500 is attributable to the I.R.D. items. "B"

has an inheritance tax of \$40,150, of which \$14,000 is attributable to the I.R.D. items. Under the formula in the bill, A's income tax deduction, assuming he included all of his I.R.D. in gross income in the same year, would be computed as follows:

$$\begin{aligned} & \$8,150 \quad (\text{A's total inheritance tax}) \\ - & \$5,650 \quad (\text{A's inheritance tax after excluding I.R.D.}) \times \\ & \frac{\$50,000}{\$50,000} = \$2,500. \end{aligned}$$

B's income tax deduction, assuming all I.R.D. was included in gross income in the same year, would be computed as follows:

$$\$40,150 - \$26,150 \times \frac{\$200,000}{\$200,000} = \$14,000.$$

Total I.R.D. income tax deductions equal \$16,500, which is equal to total inheritance tax attributable to I.R.D.

The formula in the bill ensures that each beneficiary gets his total I.R.D. deduction ratably over the taxable years in which he includes his I.R.D. items in gross income. Thus, assume that A in this example included only \$10,000 of his \$50,000 of I.R.D. items in gross income in a given year. His I.R.D. deduction for that year would be computed as follows:

$$\$8,150 - \$5,650 = \$2,500 \times \frac{\$10,000}{\$50,000} = \$500.$$

Thus, a beneficiary can never receive total I.R.D. deductions in excess of the inheritance tax attributable to his I.R.D. items that were subject to inheritance tax.

Proposal 1

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Under the Federal estate tax and the North Carolina inheritance tax, when a person who dies has property that represents a right to future income (installment note, deferred compensation agreement), the calculated value (in present dollars) of the right to the after-death income stream is included in the decedent's taxable gross estate. Also, the income paid after death is taxable under both the federal and State income tax to the recipient.

Federal income tax law allows a personal income tax deduction for the estate tax paid on the value of the income stream. Proposal 1 would allow a corresponding State income tax deduction for the North Carolina inheritance taxes.

Effective Date:

1985 income year

Fiscal Effect:

Would reduce General Fund tax revenue by \$60,000 for 1985-86 and \$65,000 for 1986-87.

Legislative Proposal 2

A BILL TO BE ENTITLED
AN ACT TO EXEMPT MONEY FROM THE TAX ON INTANGIBLE PERSONAL PROPERTY AND TO REIMBURSE LOCAL GOVERNMENTAL UNITS FOR THE RESULTING REVENUE LOSS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-199, 105-200, and 105-205 are repealed.

Sec. 2. The first sentence of G.S. 105-202 is amended by deleting the phrase "demands, claims, deposits or share accounts in out-of-state building and loan and savings and loan associations".

Sec. 3. The first sentence of the third paragraph of G.S. 105-213(a), which begins with the words "The net amount after such deductions" and ends with the words "State Budget Officer" is rewritten to read:

"The Secretary shall allocate the net amount of taxes collected under this Article, less the deductions enumerated above, to the counties according to the county in which the taxes were collected."

Sec. 4. G.S. 105-212 is amended by deleting the second and fifth paragraphs of that section.

Sec. 5. G.S. 105-214 is rewritten to read:

"§ 105-214. Minimum tax for filing return.--A taxpayer whose tax liability under this Article for a taxable year does

not exceed the sum of fifteen dollars (\$15.00) is not required to file a return for that year."

Sec. 6. G.S. 105-275 is amended by adding a new subdivision to read:

"(30) Money, whether on hand or on deposit at a bank, a credit union, a savings and loan association, or an insurance company."

Sec. 7. The first sentence of G.S. 105-276 is rewritten to read:

"Intangible personal property that is not excluded from taxation under G.S. 105-275(30) or classified under Schedule H, G.S. 105-198 through G.S. 105-217, is subject to this Subchapter."

Sec. 8. G.S. 105-120.2(d) is repealed.

Sec. 9. G.S. 105-122(d) is amended as follows:

(1) by deleting the phrase ", except for bank deposits subject to tax under the provisions of G.S. 105-199," in the fourth sentence of the first paragraph of that subsection;

(2) by deleting the fifth sentence of the first paragraph of that subsection; and

(3) by deleting the second paragraph of that subsection.

Sec. 10. Article 7 of Chapter 105 is amended by adding a new section to read:

"§ 105-213.1. Additional distribution to counties and municipalities.--(a) Distribution. As soon as practicable after July 1 of 1986, the Secretary of Revenue shall allocate for distribution to each county and the municipalities located in the

county the amount allocated to that county from taxes levied under G.S. 105-199, 105-200, and 105-205 for the last taxable year in which these taxes were levied, plus or minus the percentage of this amount that equals the rate of change in State disposable income for the most recent 12-month period for which state personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce. Thereafter, as soon as practicable after July 1 of each year, the Secretary shall allocate to each county the amount of funds allocated to the county under this section the preceding year, plus or minus the percentage of this amount that equals the rate of change in State disposable income for the most recent 12-month period for which state personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce. Amounts allocated to a county under this section shall in turn be divided and distributed between the county and the municipalities located in the county in accordance with the method of allocating intangible tax revenue between a county and the municipalities located in the county provided in G.S.

105-213.

(b) Restrictions on Use. Amounts distributed to a county or a municipality under this section are subject to the same restrictions as amounts distributed under G.S. 105-213.

(c) Municipality Defined. As used in this section, the term 'municipality' has the same meaning as in G.S. 105-213.

(d) Source. Amounts distributed under this section shall be charged to individual income tax collections."

Sec. 11. Except for Section 10 of this act, this act is effective for taxable years beginning on or after January 1, 1985. Section 10 shall become effective July 1, 1986. This act does not affect the rights or liabilities of the State or a taxpayer arising under G.S. 105-199, -200, or -205 prior to the repeal of those sections; nor does it affect the right to a franchise tax credit under G.S. 105-120.2(d) or 105-122(d) that would otherwise have been available under those subsections prior to their amendment or repeal.

Explanation of Proposal 2:

This bill repeals part of the taxes levied on intangible personal property and reimburses counties and cities for the resulting revenue loss. Specifically, the bill repeals the tax on all money, whether on hand or on deposit at a financial institution, and distributes revenue to cities and counties to compensate them for the revenue loss resulting from the repeal of the tax on money. The distribution is based on the amount the city or county received from the repealed taxes the last year the taxes were in effect, plus or minus an adjustment for the increase or decrease in State disposable income for the preceding year. The revenue to reimburse counties and cities will be taken from the General Fund. To accomplish this repeal and reimbursement, the bill makes the following changes:

Section 1 of the bill repeals the statutes that now classify and tax money on deposit at a bank, money on hand, and money on deposit at a financial institution, respectively.

Section 2 repeals the tax on deposits in out-of-state savings and loan associations.

Section 3 makes a conforming amendment to the statute that specifies how the intangible tax revenue collected by the State is to be distributed. Currently, the tax on money on deposit at a bank or insurance company is distributed on a per capita basis, and all other intangible tax revenue is distributed to the county from which it was collected.

Section 4 deletes a paragraph that exempts money on deposit at a savings and loan association from the tax and that provides

a procedure to relieve a bank from collecting tax on money in an account of a clerk of court if the clerk remits the tax due.

Section 5 rewrites the statute specifying the minimum amount of tax liability required to file an intangibles tax return to delete the references to the repealed statutes.

Section 6 classifies money and excludes it from the property tax base. This section is necessary because money is now classified and taxed at a reduced rate, and, without the provision added by this section, money would be taxable at full value rather than reduced value as a result of the repeal of these statutes.

Section 7 adds a cross-reference to the provision, created by Section 6, excluding money from the property tax base. The section to which this cross-reference is added describes what intangible personal property is subject to tax.

Sections 8 and 9 delete references to the corporate franchise tax credit for tax paid on money on deposit. Because the tax on money on deposit is repealed by this bill, there is no longer any need to allow a credit for the tax.

Section 10 describes the reimbursement formula. Amounts distributed as reimbursement for the repeal of the intangibles tax on money are subject to the same restrictions on use as intangible tax revenue. Local acts restricting the use of intangible tax revenue will, therefore, apply to the reimbursement revenue as well. The amount distributed as reimbursement is to be charged to the individual income tax collections. Individual income tax collections was selected

because these collections are large enough to ensure adequate funds for the reimbursement.

Section 11 simply states when the act is effective. The repeal of the tax on money is effective for taxable years beginning on or after January 1, 1985. The reimbursement begins in July of 1986 because counties and cities will receive a distribution of intangibles tax revenue in July of 1985 for intangible tax revenue collected for taxable year 1984.

Summary of Proposal:

Current law taxes money on deposit, money on hand, and money deposited with insurance companies or out-of-state savings and loans and building and loan associations. Revenue collected from money on deposit with banks and insurance companies is returned to the counties based on population. Money on hand (approximately \$1.3 million in 1983-84) is distributed based on point of collection.

This proposal repeals the tax on money on deposit, money on hand, and money on deposit with insurance companies or out-of-state savings and loan and building and loan associations. It distributes to the counties the amount they received from these taxes for the last taxable year in which these taxes were levied (i.e., the amount the county should receive in its 1985-86 fiscal year). It also adds or subtracts to this figure a percentage amount equal to the rate of change in State disposable income.

Again, the counties will be reimbursed the same amount they got from these taxed items in 1985-86, plus or minus a certain percentage tied to the change in disposable income. The counties will in turn distribute the cities' portions the way they do it now.

Effective Date:

Repeal of the tax is effective January 1, 1985; the new distribution is effective July 1, 1986.

Fiscal Effect:Revenue Loss

1986	\$23.3 million	(does not include the percentage amount equal to the rate of change in the State disposable income.)
------	----------------	--

Other Information:

Distribution to local governments will be delayed about six weeks because the State disposable income data comes out the latter part of August.



Legislative Proposal 3

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY THE ALCOHOLIC BEVERAGE TAX STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Article 2C of Chapter 105 of the General Statutes is rewritten to read:

"Article 2C.

Schedule B-C. Alcoholic Beverage License
and Excise Taxes.

Part 1. General Provisions.

§ 105-113.68. Definitions; scope.--(a) Definitions. As used in this Article, unless the context clearly requires otherwise:

- (1) 'ABC Commission' means the North Carolina Alcoholic Beverage Control Commission established under G.S. 18B-200.
- (2) 'ABC law' means a statute in this Article or in Chapter 18B or a rule issued by the Secretary under the authority of this Chapter.
- (3) 'ABC permit' means a written or printed authorization issued by the ABC Commission pursuant to Chapter 18B, other than a purchase-transportation permit. Unless the context clearly requires otherwise, 'ABC permit' means a presently valid permit.
- (4) 'Alcoholic beverage' means a beverage containing at

least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages.

- (5) 'Fortified wine' means a wine made by fermentation from grapes, fruits, berries, rice, or honey, to which nothing has been added other than pure brandy made from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine, and which has an alcoholic content of not more than twenty-four percent (24%) alcohol by volume.
- (6) 'License' means a certificate, issued pursuant to this Article by the Secretary or by a city or county, that authorizes a person to engage in a phase of the alcoholic beverage industry.
- (7) 'Malt beverage' means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage containing at least one-half of one percent (0.5%) and not more than six percent (6%) alcohol by volume.
- (8) 'Person' means an individual, firm, partnership, association, corporation, other organization or group, or other combination of individuals acting as a unit.
- (9) 'Sale' means a transfer, trade, exchange, or barter, in any manner or by any means, for consideration.
- (10) 'Secretary' means the Secretary of Revenue.
- (11) 'Spirituous liquor' or 'liquor' means distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin, and all other distilled spirits and

mixtures of cordials, liqueurs, and premixed cocktails in closed containers for beverage use regardless of the dilution.

- (12) 'Unfortified wine' means wine that has an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar, and that has an alcoholic content of not less than six percent (6%) and not more than seventeen percent (17%) alcohol by volume.
- (13) 'Wholesaler or importer' when used with reference to wholesalers or importers of wine or malt beverages includes resident wineries and resident breweries that sell their wines and malt beverages at retail.
- (14) 'Wine' means unfortified and fortified wine.

(b) Scope. All alcoholic beverages shall be taxed as provided in this Article regardless whether they meet all criteria of these definitions.

§105-113.69. License tax; effect of license.--The taxes imposed in Parts 2 and 3 of this Article are license taxes on the privilege of engaging in the activity authorized by the license. Licenses issued by the State or a local government under this Article authorize the licensee to engage in only those activities that are authorized by the corresponding ABC permit. The activities authorized by each retail ABC permit are described in Article 10 of Chapter 18B, and the activities authorized by each commercial ABC permit are described in Article 11 of that Chapter.

S 105-113.70. Issuance, duration, transfer of license.--(a)
ISSUANCE, QUALIFICATIONS. Each person who receives an ABC permit shall obtain the corresponding license, if any, under this Article. All State licenses are issued by the Secretary. All local licenses are issued by the city or county where the establishment for which the license is sought is located. The information required to be provided and the qualifications for a State or local license are the same as the information and qualifications required for the corresponding ABC permit. Upon proper application and payment of the prescribed tax, issuance of a State or local license is mandatory if the applicant holds the corresponding ABC permit. No license may be issued under this Article until the applicant has received from the ABC Commission the applicable permit for that activity, and no county license may be issued for an establishment located in a city in that county until the applicant has received from the city the applicable license for that activity.

(b) Duration. All licenses issued under this section are annual licenses for the period from May 1 to April 30.

(c) Transfer. A license may not be transferred from one person to another or from one location to another.

(d) License Exclusive. Neither the State nor a local government may require a license for activities related to the manufacture or sale of alcoholic beverages other than the licenses stated in this Article.

S 105-113.71. Local government may refuse to issue license.--(a) Refusal to Issue. Notwithstanding G.S.

105-113.70, the governing board of a city or county may refuse to issue a license if it finds that the applicant committed any act or permitted any activity in the preceding year that would be grounds for suspension or revocation of his permit under G.S. 18B-104. Before denying the license, the governing board shall give the applicant an opportunity to appear at a hearing before the board and to offer evidence. The applicant shall be given at least ten days' notice of the hearing. At the conclusion of the hearing the board shall make written findings of fact based on the evidence at the hearing. The applicant may appeal the denial of a license to the superior court for that county, if notice of appeal is given within ten days of the denial.

(b) Local Exceptions. The governing bodies of the following counties and cities in their discretion may decline to issue on-premises unfortified wine licenses: the counties of Alamance, Alexander, Ashe, Avery, Chatham, Clay, Duplin, Granville, Greene, Haywood, Jackson, Macon, Madison, McDowell, Montgomery, Nash, Pender, Randolph, Robeson, Sampson, Transylvania, Vance, Watauga, Wilkes, Yadkin; any city within any of those counties; and the cities of Greensboro, Aulander, Pink Hill, and Zebulon.

§ 105-113.72. Cancellation, revocation of license.--(a) Basis. When the ABC Commission certifies to the Secretary that an ABC permit has been canceled or revoked, the Secretary shall immediately cancel or revoke the corresponding license. The Secretary may revoke a license for failure to pay a license tax

or an alcoholic beverage excise tax or for failure to furnish a proper bond.

(b) Tax not Refundable. A person whose license is canceled or revoked is not entitled to a refund of taxes.

§ 105-113.73. Misdemeanor.--Except as otherwise expressly provided, violation of a provision of the ABC law is a misdemeanor and is punishable as provided in G.S. 14-3.

Part 2. State Licenses

§ 105-113.74. State commercial licenses.--(a) License and Tax. A person holding any of the following commercial ABC permits shall obtain a State license for the activity authorized by the permit. The annual tax for each license is as stated.

<u>ABC Permit</u>	<u>Corresponding State License</u>	<u>Tax</u>
Brewery	Brewery	\$500.00
Unfortified winery	Unfortified winery	100.00
Fortified winery	Fortified winery	100.00
Distillery	Distillery	100.00
Fuel alcohol	Fuel alcohol	10.00
Bottler	Bottler	250.00
Malt beverage importer, wine importer, or both	Importer	150.00
Nonresident malt beverage vendor, nonresident wine vendor, or both	Nonresident vendor	150.00 or 25.00 as provided in (b) below
Malt beverage wholesaler	Malt beverage wholesaler	150.00
Wine wholesaler	Wine wholesaler	150.00
Both malt beverage wholesaler and wine wholesaler		250.00
Salesman	Salesman	12.50
Vendor representative	Salesman	12.50
(b) Nonresident Vendor Tax. The license tax payable by an applicant for a State nonresident vendor license who sells 500 or more cases of alcoholic beverages in North Carolina during a license year is one hundred fifty dollars (\$150.00), and the license tax payable by an applicant who sells fewer than 500 cases of alcoholic beverages in North Carolina during a license year is twenty-five dollars (\$25.00). A vendor who pays the lower fee shall pay the one hundred twenty-five dollars (\$125.00)		

difference between that and the higher fee once his sales during the year reach 500 cases.

§ 105-113.75. State beer and wine retail licenses.--A person holding any of the following retail ABC permits shall obtain a State license for the activity authorized by the permit. The annual tax for each license is as stated.

<u>ABC Permit</u>	<u>Corresponding State License</u>	<u>Tax</u>
On-premises malt beverage, off-premises malt beverage, or both	Retail malt beverage	\$20.00
On-premises unfortified wine, on-premises fortified wine, or both	Retail wine: on-premises	25.00
Off-premises unfortified wine, off-premises fortified wine, or both	Retail wine: off-premises	20.00

§ 105-113.76. Sales on railroad trains.--(a) License.

Each person operating a railroad train in this State on which alcoholic beverages are sold shall obtain from the Secretary a State railroad sales license. The annual fee for this license is one hundred dollars (\$100.00) for each railroad system over which cars are operated in this State.

(b) Payment of Excise Tax. The holder of a State railroad sales license shall submit monthly reports of the amount of alcoholic beverages sold in this State and shall remit the applicable excise tax due on the sale of these beverages when the report is submitted. The report is due on or before the 15th day of the month following the month in which the beverages are sold. The report shall be made on a form prescribed by the Secretary.

Part 3. Local Licenses.

§ 105-113.77. City beer and wine retail licenses.--(a)
License and Tax. A person holding any of the following retail ABC permits for an establishment located in a city shall obtain from the city a city license for that activity. The annual tax for each license is as stated.

<u>ABC Permit</u>	<u>Tax for Corresponding License</u>
On-premises malt beverage.....	\$15.00
Off-premises malt beverage.....	5.00
On-premises unfortified wine, on-premises fortified wine, or both.....	15.00
Off-premises unfortified wine, off-premises fortified wine, or both.....	10.00

(b) Tax on Additional License. The tax stated in subsection (a) is the tax for the first license issued to a person. The tax for each additional license of the same type issued to that person for the same year is one hundred ten percent (110%) of the base license tax, that increase to apply progressively for each additional license.

§ 105-113.78. County beer and wine retail licenses.--A
person holding any of the following retail ABC permits for an establishment located in a county shall obtain from the county a county license for that activity. The annual tax for each license is as stated.

<u>ABC Permit</u>	<u>Tax for Corresponding License</u>
On-premises malt beverage.....	\$25.00
Off-premises malt beverage.....	5.00
On-premises unfortified wine, on-premises fortified wine, or both.....	25.00
Off-premises unfortified wine, off-premises fortified wine, or both.....	25.00

§ 105-113.79. City wholesaler license.--A city may require city malt beverage and wine wholesaler licenses for businesses located inside the city, but may not require a license for a business located outside the city, regardless whether that business sells or delivers malt beverages or wine inside the city. The city may charge an annual tax of not more than twenty-five percent (25%) of the annual tax for the equivalent State license as set by G.S. 105-113.74.

Part 4. Excise Taxes, Distribution of Tax Revenue.

§ 105-113.80. Excise taxes on beer, wine, and liquor.--(a) Beer. An excise tax is levied on the sale of malt beverages at the rate of:

- (1) forty-eight and three hundred eighty-seven one thousandths cents (48.387¢) per gallon on malt beverages in barrels holding at least seven and three-fourths gallons; and
- (2) fifty-three and three hundred seventy-six one thousandths cents (53.376¢) per gallon on malt beverages in cans, bottles, barrels, or other

containers holding less than seven and three-fourths gallons.

(b) Wine. An excise tax of twenty-one cents (21¢) per liter is levied on the sale of undortified wine, and an excise tax of twenty-four cents (24¢) per liter is levied on the sale of fortified wine.

(c) Liquor. An excise tax of twenty-two and one half percent (22½%) of the ~~retail~~ price is levied on liquor sold in ABC stores. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is computed is the distiller's price plus (i) the State ABC warehouse freight and bailment charges, and (ii) a markup for local ABC boards. This tax is in lieu of sales and use taxes; accordingly, liquor is exempt from those taxes as provided in G.S. 105-164.13(17).

§ 105-113.81. Exemptions.—(a) Major Disaster.

Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages or wine rendered unsalable by a major disaster. To qualify for this exemption, the wholesaler or importer shall prove to the satisfaction of the Secretary that a major disaster occurred. A major disaster is the destruction, spoilage, or rendering unsalable of 50 or more cases, or the equivalent, of malt beverages or 25 or more cases, or the equivalent, of wine.

(b) Sales to Oceangoing Vessels. Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages and wine sold and delivered for use on oceangoing vessels. An oceangoing vessel is a ship that plies the

high seas in interstate or foreign commerce, in the transport of freight or passengers, or both, for hire exclusively. To qualify for this exemption the beverages shall be delivered to an officer or agent of the vessel for use on that vessel. Sales made to officers, agents, crewmen, or passengers for their personal use are not exempt.

(c) Sales to Armed Forces. Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages and wine sold to the United States Armed Forces. The Secretary may require malt beverages and wine sold to the Armed Forces to be marked "For Military Use Only" to facilitate identification of those beverages.

(d) Out-of-State Sales. Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages and wine shipped out of this State for resale outside the State.

(e) Tasting. Resident breweries and wineries are not required to remit excise taxes on malt beverages and wine given free of charge to customers, visitors, and employees on the manufacturer's licensed premises for consumption on those premises.

§ 105-113.82. Distribution of part of beer and wine taxes.--(a) Amount, Method. The Secretary shall annually distribute the following percentages of the net amount of excise taxes collected on the sale of malt beverages and wine to the counties and cities in which the retail sale of these beverages is authorized:

- (1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-three and three-fourths percent (23 3/4%);
- (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-two percent (62%); and
- (3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-two percent (22%).

If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount of excise tax to be distributed, that portion to be determined on the basis of population. If one of these beverages may be licensed to be sold at retail in a city located in a county in which the sale of the beverage is otherwise prohibited, only the city shall receive a portion of the amount of excise tax to be distributed, that portion to be determined on the basis of population. The amounts to be distributed under subdivisions (1), (2), and (3) shall be computed separately.

(b) Reduction in Amount Distributed. Where the sale of malt beverages, unfortified wine, or fortified wine is prohibited in a defined area of a city or county in which the sale of the beverage is authorized, the amount otherwise distributable to the city or county on the basis of population under subsection (a) shall be reduced in the same ratio that the area of the defined area bears to the total area of the city or county, unless the defined area is a city. If the defined area in a county is a

city, the reduction in the amount otherwise distributable to the county under subsection (a) shall be based on population instead of area. All reductions shall be retained by the State.

(c) Exception. Notwithstanding subsection (a), in a county in which ABC stores have been established by petition, revenue shall be distributed as though the entire county had approved the retail sale of a beverage whose retail sale is authorized in part of the county.

(d) Time. The distribution shall be made within 60 days after September 30 of each year and shall be based on collections during the preceding 12-month period ending September 30.

(e) Population Estimates. To determine the population of a city or county for purposes of the distribution required by this section, the Secretary shall use the most recent annual estimate of population certified by the State Budget Officer.

(f) City Defined. As used in this section, the term 'city' means a city as defined in G.S. 153A-1(1) or an urban service district defined by the governing body of a consolidated city-county.

(g) Use of Funds. Funds distributed to a county or city under this section may be used for any public purpose.

Part 5. Administration.

§ 105-113.83. Payment of excise taxes.--(a) Liquor. The excise tax on liquor levied under G.S. 105-113.80(c) is payable monthly by the local ABC board to the Secretary. The tax shall be paid on or before the 15th day of the month following the month in which the tax was collected.

(b) Beer and Wine. The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. The taxes on malt beverages and wine shall be paid only once on the same beverages. The tax shall be paid on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the wholesaler or importer. When excise taxes are paid on wine or malt beverages, the wholesaler or importer shall submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report shall indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply.

(c) Railroad Sales License. This section does not affect the duty of a holder of a State railroad sales license to remit excise taxes on alcoholic beverages sold by that licensee in this State, as provided in G.S. 105-113.76.

§ 105-113.84. Invoices, report of resident brewery, resident winery, or nonresident vendor.--(a) Invoice. When a resident brewery, resident winery, or nonresident vendor sells or delivers wine or malt beverages to a North Carolina wholesaler or importer, he shall give the wholesaler or importer two copies of the sales invoice. He shall also file one copy with the Secretary. The invoice shall state:

- (1) the name and address of the licensee making the sale

or delivery;

- (2) the name, address, and license number of the wholesaler or importer receiving the beverages;
- (3) the kind of beverage sold or delivered; and
- (4) the exact quantities of beverages sold or delivered, specified by size and type of container.

(b) Monthly Report. Each resident brewery, resident winery, or nonresident vendor that sells or delivers wine or malt beverages in North Carolina shall prepare and file with the Secretary a monthly report, on a form provided by the Secretary, stating the exact quantities of those beverages sold to North Carolina wholesalers or importers during the previous month. The report shall specify the size and type of containers sold. The report shall be filed on or before the 15th day of the month following the month in which the beverages are sold or delivered.

§ 105-113.85. Discount.--Each wholesaler or importer who remits the excise taxes on malt beverages or wine may deduct from the amount payable by him a discount of four percent (4%). This discount covers losses due to spoilage and breakage, expenses incurred in preparing the records and reports required by this Article, and the expense of furnishing a bond. No discount is allowed on taxpaid beverages given as free goods for advertising.

§ 105-113.86. Bonds.--(a) Wholesalers and Importers. Each holder of a malt beverage wholesaler license, a wine wholesaler license, or an importer license shall furnish a bond, secured by a corporate surety, in an amount of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000)

to cover his tax liability. The bond shall be conditioned on compliance with this Article, shall be payable to the State, and shall be in a form acceptable to the Secretary. The Secretary shall proportion the bond amount to the anticipated tax liability of the wholesaler or importer. The Secretary shall periodically review the sufficiency of bonds furnished by wholesalers and importers, and shall increase the amount of a bond required of a wholesaler or importer when the amount of the bond furnished no longer covers the wholesaler's or importer's anticipated tax liability.

(b) Nonresident Vendors. The Secretary may require the holder of a nonresident vendor license to furnish a bond, secured by a corporate surety, in an amount not to exceed two thousand dollars (\$2,000). The bond shall be conditioned on compliance with this Article, shall be payable to the State, and shall be in a form acceptable to the Secretary.

§ 105-113.87. Refund for excise tax paid on sacramental wine.--(a) Refund Allowed. A person who purchases wine for the purpose stated in G.S. 18B-103(8) may obtain a refund from the Secretary for the amount of the excise tax levied under this Article. The Secretary shall make refunds annually.

(b) Application. An applicant for a refund authorized by this section shall file a written request with the Secretary for the refund due for the prior calendar year on or before April 15. The Secretary may by rule prescribe what information and records shall be supplied by the applicant to qualify for the refund.

(c) Late Application. An application for a refund filed later than required in subsection (b) shall be accepted by the Secretary but shall be subject to the following late penalties: an application filed by May 15, twenty-five percent (25%); an application filed after May 15 but no later than October 15, fifty percent (50%). No refund may be made if the application is filed after October 15.

§ 105-113.88. Record keeping requirements.--(a)

Requirement. Every person licensed under this Article shall maintain complete and accurate records of all purchases and sales of alcoholic beverages taxable under this Article. These records shall be kept separate from all other records the person keeps. Each person shall also maintain copies of all reports filed with the Secretary and invoices, sales tickets, and other data that substantiate those reports.

(b) Length of Time Records Shall be Kept. Every person licensed under this Article shall keep the records, reports, and other information required by this section for three years.

§ 105-113.89. Other applicable administrative provisions.--The administrative provisions of Article 9 of this Chapter apply to this Article. In addition, the following administrative provisions of Schedule B of this Chapter apply to the license taxes levied under this Article: G.S. 105-103, -104, -105, -108, -109, -110, and -112. In applying the provisions of Schedule B to this Article, the month 'May' shall be substituted for the month 'July'."

Sec. 2. G.S. 18B-1006 is amended by adding a new subsection to read:

"(h) Purchase Restrictions. A retail permittee may purchase malt beverages, unfortified wine, or fortified wine only from a wholesaler or importer who maintains a place of business in this State and has the proper permit."

Sec. 3. Article 11 of Chapter 18B is amended by adding a new section to read:

"§ 18B-1118. Purchase restrictions.--The holder of a malt beverage wholesaler, wine wholesaler, malt beverage importer, wine importer, or bottler permit may not purchase malt beverages or wine for resale in this State from a nonresident who does not have the proper nonresident vendor permit."

Sec. 4. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(37) Spirituous liquor. This exemption does not prohibit the levy of sales and use taxes on mixed beverages. As used in this subdivision, the terms 'spirituous liquor' and 'mixed beverage' have the same meanings as in G.S. 18B-101(14) and (10) respectively."

Sec. 5. G.S. 18B-108 is rewritten to read:

"§ 18B-108. Sales on trains.--Alcoholic beverages may be sold on railroad trains in this State upon receipt of the required revenue license under G.S. 105-113.76."

Sec. 6. The last sentence of G.S. 18B-306 is amended by changing the comma after the word "section" to a period and deleting the remainder of that sentence.

Sec. 7. G.S. 18B-804(b)(4) is amended by deleting the reference "105-113.93" and substituting the reference "105-113.80(c)".

Sec. 8. G.S. 18B-804(c) is amended by deleting the reference "105-113.95" and substituting the reference "105-113.80(b)".

Sec. 9. G.S. 18B-804(d) is amended by deleting the reference "105-113.86" and substituting the reference "105-113.80(b)".

Sec. 10. G.S. 105-33(i) is amended by deleting the words "the sheriff".

Sec. 11. G.S. 105-236(11) and 105-237.1(a) are each amended by deleting the phrase "Chapter 18" each time it appears and substituting the phrase "Chapter 18B".

Sec. 12. Excise tax revenue from excise taxes on malt beverages, unfortified wine, and fortified wine that has been allocated by the Department of Revenue for distribution to a city but has not been distributed as of the effective date of this act because the city is inactive is reallocated to the State for appropriation by the General Assembly and is, therefore, not distributable to that city or to any other city or county in a distribution of excise tax revenue under Article 2C of Chapter 105 of the General Statutes. An inactive city is a city that is inactive and does not currently have a finance officer.

Sec. 13. This act is effective upon ratification. This act does not affect licenses issued for the period May 1, 1984, to April 30, 1985.

Explanation of Proposal 3:

This bill rewrites Article 2C of Chapter 105, concerning alcoholic beverage license and excise taxes, to make the Article easier to understand. The committee undertook a recodification of this Article at the request of the former Alcoholic Beverage Taxation Study Committee. For the most part, the bill simply reorganizes Article 2C and deletes provisions that are obsolete or repetitive. For example, the State ABC licenses that are now scattered throughout Article 2C are grouped into two sections; provisions that simply repeat the regulatory ABC law, such as G.S. 105-113.70(b), have been deleted; and references to past events, such as the reference in G.S. 105-113.86(p) to a 1947 distribution of excise taxes, have been deleted.

Section 1 of the bill rewrites Article 2C. Sections 2 through 11 of the bill make conforming amendments to Chapter 18B of the General Statutes, which contains the regulatory ABC law, or correct technical errors in the tax statutes that were discovered in preparing the bill. The conforming amendments either change statutory references in Chapter 18B to Article 2C to the proper statute in the revised Article 2C or add regulatory provisions to Chapter 18B that previously appeared only in Article 2C. Section 12 of the bill eliminates the "hold" fund for beer and wine excise tax revenue that cannot be distributed as required by law because the cities that are entitled to the revenue exist only on paper.

Except as stated below, this bill does not change current law. The changes made by this bill are made to resolve problems

with the current law discovered by the committee in conducting this recodification. The bill changes current law as follows:

- (1) It deletes the special excise tax rate on wine made in North Carolina from North Carolina grapes under G.S. 105-113.86(o) and G.S. 105-113.95, so that North Carolina unfortified wine is subject to an excise tax of 21¢ per liter instead of 1½¢ per liter and North Carolina fortified wine is subject to an excise tax of 24¢ per liter instead of 1½¢ per liter. The preferential tax rate on North Carolina wines was deleted because, according to the analysis of the United States Supreme Court's decision in Bacchus Imports, Limited v. Dias, it violates the commerce clause of the United States Constitution and is, therefore, unconstitutional.
- (2) It requires a corresponding revenue license for each ABC vendor representative permit instead of requiring only one revenue license for the same person regardless of the number of vendor representative permits granted that person. The corresponding revenue license for an ABC vendor representative permit is called a salesman license and is subject to a \$12.50 tax per year. Currently, only one salesman license is required for the same person regardless of the number of vendors represented by that person; whereas, a separate ABC vendor representative permit is required for each vendor represented.

The requirement of only one salesman license per person creates numerous administrative problems and makes the salesman license more costly to administer than collect due to the time consumed in granting refunds. Because most vendors apply for this license on behalf of their representative and each representative typically represents more than one vendor, numerous applications are made for and frequently numerous licenses are issued to the same person. When the duplication is discovered, the Department must refund all but one license tax. At that point, it is faced with the question of which vendors should get a refund and which one should pay the tax. In practice, the vendor who submitted the first application for a representative pays the tax and all others are given refunds. One vendor is thus subsidizing the license tax for the others, who receive the services of the same representative, and the Revenue Department is devoting many hours to administering a tax that is only \$12.50 per year.

(3) It treats late payments of beer and wine excise taxes the same as late payments of liquor excise taxes and all other taxes. The penalty for late payment of all taxes except beer and wine excise taxes is established by the general administrative provisions of Chapter 105 and is 5% of the tax due plus interest, with a minimum of \$5.00 (G.S. 105-236(4) and

105-241.1). Except for beer and wine excise taxes, interest is assessed only on the amount of tax due and not the penalty for late payment. Under G.S. 105-113.86(k), the penalty for late payment of beer and wine excise taxes is 10% of the amount due, plus interest assessed on the amount due and the penalty. For ease of administration and to make all administrative penalties the same, the committee deleted the provisions specifying a unique treatment for late payments of beer and wine excise taxes.

(4) It conforms the definition of "city" to that used in other parts of the General Statutes to make clear that only active cities are eligible to participate in the distribution of beer and wine excise tax revenue and transfers excise tax revenue held for inactive cities to the General Fund. Under the new definition, only cities that have conducted the most recent election of city officials required by their charter or by general law would be included in the distribution.

Currently, the Department of Revenue includes every city whose charter has not been repealed in the distribution of beer and wine excise taxes. Among this group, however, are many cities that no longer function but whose charters have not been repealed. If a city does not have a finance officer to receive the distribution, the Revenue Department must place that nonfunctional city's share in a special fund. The

Department has been holding some funds for 38 years. The amount in this "hold" fund has accumulated to approximately \$300,000. The Department adds a few thousand dollars to this fund each year.

To enable the reader to compare the current Article 2C with the proposed Article, the following Guide lists each section and subsection of current Article 2C and indicates where that section or subsection can be found in the revised Article 2C or why it was deleted if it is not in the revised Article 2C.

Guide to An Act to Simplify the
Alcoholic Beverage Tax Statutes

Current Law

	<u>Revised Law</u>
G.S. 105-113.68(a)	Same, except definitions of ABC Commission, ABC law, ABC permit, Secretary, wholesaler, and wine added.
(b)	Same.
(c)	-113.68(a)(3); "presently qualified" language deleted because it is incorporated in the definition.
G.S. 105-113.69(a)	Part in -113.69; part in -113.70(a).
(b)	-113.70(b).
(c)	-113.70(d).
(d)	-113.73.
G.S. 105-113.70(a)	-113.74(a).
(b)	Deleted because repeats 18B-1104(3).
(c)	-113.74(a).
(d)	Deleted because repeats 18B-1101(2) and (3).
(e)	Deleted because unnecessary - a license is obviously not required for this activity because it is not listed in -113.74(a); this subsection also repeats 18B-306.
G.S. 105-113.71	Part in -113.74(a), part deleted because repeats 18B-1110(2).
G.S. 105-113.72(a)	-113.74(a).
(b)	Deleted because repeats 18B-1102(2) and (3).
(c)	-113.74(a).
(d)	-113.74(a).
G.S. 105-113.73(a)	-113.74(a).
(b)	-113.74(a).
(c)	-113.74(a).
(d)	Deleted because repeats 18B-1107(2) and (3) and 18B-1109(2) and (3).
(e)	Deleted because unnecessary.
(f)	-113.79.
G.S. 105-113.74	Previously repealed.
G.S. 105-113.75	Part in -113.76; part in -113.83(b).
G.S. 105-113.76	Part in -113.74(a); part deleted because repeats 18B-1112(b); part in -113.74(e).

<u>Current Law</u>	<u>Revised Law</u>
G.S. 105-113.77	Previously repealed.
G.S. 105-113.78	Previously repealed.
G.S. 105-113.79 (a) (b)	-113.77(a). -113.77(b).
G.S. 105-113.80	-113.70(a).
G.S. 105-113.81 (a) (b)	-113.78. -113.70(a).
G.S. 105-113.82 (a) (b)	-113.71(a). -113.71(b).
G.S. 105-113.83 (a) (b) (c)	-113.75. -113.75. Deleted because repeats new 18B-1006(h).
G.S. 105-113.84 (a) (b)	-113.75. Deleted because repeats new 18B-1006(h).
G.S. 105-113.85 (a) (b) (c) (d)	Part in -113.75, -113.77, and -113.78. Part in -113.75, -113.77, and -113.78. Part in -113.75, -113.77, and -113.78. Deleted because repeats new 18B-1006(h).
G.S. 105-113.86 (a) (b) (c) (d) (e) (f) (g) (h)	-113.80(a). -113.83(b). Part in -113.83(b), part deleted because more appropriately handled by rule, and part in -113.88. Deleted because repeats 105-258 and 105-233. -113.84(a). Part in -113.84(b), part in -113.88. -113.76(b). -113.85.
(i) (j) (k)	Part in -113.81(a), part in -113.81(e). Part in -113.81(c), part in -113.81(d), part in -113.81(b), and part in -113.83(b). Deleted because repeats 105-236(4) and computes interest on the penalty as well as the tax due, which is contrary to the general rule.

Current Law

<u>Current Law</u>	<u>Revised Law</u>
(l)	Repealed because repeats 105-113.86 and 113.87.
(m)	Deleted because repeats 105-113 and other Article 9 provisions.
(n)	Deleted because unnecessary; and Department not Department of Revenue regulates transportation.
(o)	Part in -113.86(a), part deleted because unconstitutional under <u>Bacchus</u> <u>liquor</u> <u>decision</u> , and part in -113.87(a).
(p)	Deleted because (g); part deleted because obsolete.
(q) - (u)	Provisions repealed.
(v)	-113.88(5).
G.S. 105-113.87	-113.88(6).
G.S. 105-113.88	Part in -113.86(a), part in -113.86(a), part in -113.86(b)(13), and part deleted because obsolete.
G.S. 105-113.89 (a)	Part in -113.76(a), part in -113.74(b).
(b)	Deleted because repeats 18B-1113 and -2011, part deleted because more appropriately handled by rule.
(c)	Part in -113.86(b), and part deleted because unnecessary.
G.S. 105-113.90	Deleted because repeats new 18B-1118.
G.S. 105-113.91	-113.87(1).
G.S. 105-113.92	Deleted because repealed.
G.S. 105-113.93	Part eliminated into sales tax law, part in -113.86(a), part deleted because repeats Article 9 provisions.
G.S. 105-113.94	Deleted because repealed.
G.S. 105-113.95	Part in -113.86(b), part deleted because unconstitutional under the <u>Bacchus</u> <u>liquor</u> <u>decision</u> .
G.S. 105-113.96	-113.87.
G.S. 105-113.97	-113.88(6).

Current Law

G.S. 105-113.98

G.S. 105-113.99

G.S. 105-113.100 (a)
 (b)

G.S. 105-113.101

G.S. 105-113.102

G.S. 105-113.103

G.S. 105-113.104

Revised Law

Part in -113.88, part deleted because repeats 105-251 and 105-258.

Part in -113.71(c), part deleted because repeats 105-112(b) and (c).

Deleted because repeats 105-105.
Deleted because repeats 18B-109(a).

-113.89.

Deleted because repeats 105-262.

-113.72.

Part in -113.73, part incorporated in -113.72, and part deleted because repeats powers of ABC Commission.

Summary of Proposal:

- (1) Reorganizes the alcoholic beverage tax laws and deletes obsolete and repetitive provisions.
- (2) Deletes preferential lower excise tax rate on wine produced in North Carolina from grapes grown in North Carolina (to conform to recent U.S. Supreme Court decision).
- (3) Requires a Revenue Department license for each vendor representative ABC permit instead of requiring only one license regardless of number of permits.
- (4) Applies the penalty and interest schedule for late payment of liquor excise taxes and all other taxes to late payment of beer and wine excise taxes.
- (5) Amends the definition of "city" to make it clear that only active cities are eligible to participate in the distribution of beer and wine excise taxes and transfers excise tax revenue held for inactive cities to General Fund.

Effective Date:

Upon ratification

Fiscal Effect:

Would increase General Fund revenue by a maximum of \$70,000 per year.

Legislative Proposal 4

A BILL TO BE ENTITLED

AN ACT TO ALLOW INDIVIDUALS A FIVE-YEAR CARRYFORWARD OF ANY
UNUSED CHARITABLE DEDUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(15) is amended by adding a new paragraph to read:

"A taxpayer who cannot deduct his total charitable contributions under this section for a taxable year because of the adjusted gross income limitation may carry the unused portion of his deduction forward for the succeeding five years. A carryforward of a charitable contribution shall be used in the earliest possible year."

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1985.

Explanation of Proposal 4:

This bill allows individuals who cannot deduct their total charitable contributions in a taxable year because their contributions exceed fifteen percent of their adjusted gross income to apply the excess charitable contribution deduction to their future income tax liability. Currently, some charitable contributions are subject to a 15% adjusted gross income limitation, and some are not. Allowing a carryforward for those contributions that are now subject to the adjusted gross income limitation will reduce the inequity of the current distinction and enable all but the consistently generous donor to deduct the full amount of his charitable contributions. This brings North Carolina law on individual charitable contributions closer to federal law, which imposes a 50% adjusted gross income limitation on charitable contributions and allows a five-year carryforward.

Contributions to the following organizations, all of which are listed in G.S. 105-147(15), are limited to 15% of the donor's adjusted gross income:

1. Organizations operated exclusively for religious, charitable, literary, scientific or educational purposes or for the purpose of preventing cruelty to animals or children;
2. Organizations of war veterans;
3. Cemetery companies and burial associations;
4. Rescue squads;
5. Volunteer fire departments; and
6. Alcoholics Anonymous.

Adjusted gross income is defined in G.S. 105-141.3 as gross income less allowable deductions incurred in deriving the income and losses on business property and property held for the production of income.

Contributions to the organizations listed in G.S. 105-147(16), however, are not subject to an adjusted gross income limitation. The following organizations are listed in that subdivision:

- (1) The State and its political subdivisions;
- (2) Educational institutions located in North Carolina;
- (3) Nonprofit hospitals located in North Carolina;
- (4) Civil Air Patrol units located in North Carolina; and
- (5) Public-supported community foundations or trusts.

Because of the limitation on the amount that may be deducted for contributions to organizations listed in G.S. 105-147(15), a generous donor who contributes to a church will pay more tax than if he had contributed to The University of North Carolina.

Consider the following example: Mr. Brown and Mr. Smith each have adjusted gross incomes of \$30,000, and each makes a charitable contribution of \$6,000. Mr. Brown gives his money to his church, and Mr. Smith gives his to The University of North Carolina. Mr. Brown may deduct only \$4,500 (15% of \$30,000) while Mr. Smith may deduct the entire \$6,000.

The rationale for imposing a limitation on some, but not all, charitable contributions is unclear. The distinction between limited and unlimited charitable contributions was first made in 1949, when a subsection was added to the revenue laws

creating an unlimited deduction for gifts to the State and its political subdivisions (1949 Session Laws 392, s.3). Educational institutions were added to this subsection by 1963 Session Laws 1169, s. 2, and the Civil Air Patrol was removed from subdivision (15) and added to (16) by 1977 Session Laws 890, ss. 1 and 2. Before Chapter 392 of the 1949 Session Laws was enacted, gifts to the State were not deductible.

Proposal 4

Fiscal Report
Fiscal Research Division
December 9, 1984

Summary of Proposal:

Under current State personal income tax law there is a limit on allowable charitable contributions for any tax year of 15% of adjusted gross income, except for gifts to State or local government agencies in North Carolina, educational institutions, nonprofit hospitals, Civil Air Patrol, and public-supported community foundations or trusts. For these exceptions, there is no annual contribution limit. For gifts subject to the 15% limit, there is no provision for a taxpayer to use the excess deductions in a future year (carryforward) or to amend a previous year's return to use the excess deduction (carryback).

This proposal allows a taxpayer to carry forward excess charitable contributions for up to five years.

Effective Date:

1985 income year

Fiscal Effect:

Will reduce General Fund tax revenue by \$1.3 million for 1985-86 and \$1.4 million for 1986-87.

Related Information:

Federal law has a 50% of adjusted gross income limit, except for a 30% limit that applies to a few selected categories of gifts and a 20% limit on capital gains gifts. Federal law does allow a five-year carryforward of excess contributions.

Legislative Proposal 5

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE STATE DEPENDENT CARE CREDIT TO THE FEDERAL CREDIT REGARDING CARE FOR A DISABLED DEPENDENT OR SPOUSE AND THE MAXIMUM AMOUNT OF EMPLOYMENT-RELATED EXPENSES ELIGIBLE FOR THE CREDIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-151.11(a) is amended by deleting the second and third sentences of that subsection.

Sec. 2. G.S. 105-151.11(b) (2) is amended by adding a new sentence to read:

"The term includes expenses incurred for services outside the taxpayer's household if the expenses incurred are for the care of a qualifying individual described in (b)(1)a. or a qualifying individual described in (b)(1)b. or c. who regularly spends at least eight hours each day in the taxpayer's household."

Sec. 3. G.S. 105-151.11 is amended by inserting a new subsection between subsections (b) and (c) to read:

"(b1) The amount of employment-related expenses for which a credit may be claimed may not exceed two thousand four hundred dollars (\$2,400) if the taxpayer's household includes one qualifying individual, and may not exceed four thousand eight hundred dollars (\$4,800) if the taxpayer's household includes more than one qualifying individual."

Sec. 4. G.S. 105-151.11 is amended by deleting the reference "G.S. 105-149(5)" each time it appears in that section and substituting the reference "G.S. 105-149(a)(5)".

Sec. 5. This act is effective for taxable years beginning on or after January 1, 1985.

Explanation of Proposal 5:

This bill conforms the North Carolina child-care income tax credit to the federal child-care credit concerning the types of expenses that qualify for the credit and the amount of expenses that qualify for the credit. The bill expands the definition of "employment-related expenses" to include expenses for care outside the household for a mentally or physically disabled child who is 15 or older or a physical or mentally disabled spouse. Currently, the only expenses outside the household that are eligible for this credit are expenses for the care of a child who is 14 or younger, regardless of mental or physical condition. The bill also increases the maximum amount of expenses for which a credit may be claimed to \$4,800 for two or more qualifying individuals and \$2,400 for one qualifying individual. Currently, the maximum expenses for which a credit may be claimed are \$4,000 for two or more qualifying individuals and \$2,000 for one qualifying individual. A qualifying individual is a child under 15, a child 15 or older who is mentally or physically incapable of caring for himself, or a spouse who is likewise physically or mentally incapacitated.

Section 1 of the bill deletes the sentences that now allow expenses outside the household for the care of a child 14 or younger to be included in employment-related expenses. Section 2 of the bill reinserts this provision in the definition of "employment-related expenses".

Section 2 expands the definition of "employment-related expenses" as described above.

Section 3 increases the maximum amount of expenses eligible for the credit as described above.

Section 4 makes a technical amendment to the child-care credit to correct an incorrect statutory reference.

Proposal 5

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Would conform the State personal income 7% tax credit for child-care expenditures to recent federal changes by allowing the credit for expenses incurred in caring for a disabled person outside the home and raising the eligible expense limit from \$2,000 to \$2,400 for one dependent and from \$4,000 to \$4,800 for two or more dependents.

Effective Date:

1985 income year

Fiscal Effect:

Would reduce General Fund tax revenue by \$2.7 million for 1985-86 and \$2.9 million for 1986-87.

Legislative Proposal 6

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED
IN DETERMINING CERTAIN TAXABLE INCOME AND TAX EXEMPTIONS.

The General Assembly of North Carolina enacts:

Section 1. The last sentence of G.S. 105-2.1, 105-114,
105-130.2(1), 105-135(15), 105-163.1(11), and 105-212 are each
amended by deleting the date "April 1, 1983" and substituting the
date "December 31, 1984".

Sec. 2. This act is effective upon ratification.

Explanation of Proposal:

As the title of this bill indicates, this bill updates the reference to the Internal Revenue Code used in determining certain taxable income and tax exemptions. Many aspects of the State tax structure are tied to the Internal Revenue Code as it existed on a certain date. The State corporate income tax, for example, is a percentage of the corporation's federal taxable income computed under the Internal Revenue Code in effect on April 1, 1983. Likewise, many individual income tax provisions, such as the special deduction for State legislators for expenses incurred away from home, are defined in terms of the Internal Revenue Code in effect on April 1, 1983. To keep the State laws that are intended to track the federal law in step with the changes made in federal law since April 1, 1983, by the Tax

Reform Act of 1984 and the other acts that have been passed in this period, the reference date of the Internal Revenue Code needs to be changed to December 31, 1984.

Proposal 6

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Updates references in State tax law to the Internal Revenue Code.

Effective Date:

Upon ratification

Fiscal Effect:

Would increase General Fund revenue by at least \$5 million per year.

Legislative Proposal 7

A BILL TO BE ENTITLED
AN ACT TO EXTEND THE INCOME TAX EXCLUSION FOR CERTAIN EMPLOYEE
DEATH BENEFITS TO SIMILAR DEATH BENEFITS OF SELF-EMPLOYED
INDIVIDUALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-141(b) (11) is amended by adding a new sentence to read:

"In the case of amounts paid or distributed by a trust described in section 401(a) of the Code and exempted from federal income tax under section 501(a) of the Code or under a plan described in section 403(a) of the Code, the term 'employee', as used in this subdivision, includes a self-employed individual."

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1985.

Explanation of Proposal:

This bill conforms State law to federal law regarding the exclusion of death benefits from gross income. Currently, State law allows a \$5,000 exclusion for certain amounts paid to the estate or heirs of an employee by the deceased's employer because of the employee's death. Only amounts to which the employee did not have a nonforfeitable right qualify for this exclusion. Also, up to \$5,000 of any amount paid, in a lump-sum distribution, to the estate or heirs of an employee from a

pension plan or trust established by the deceased employee's employer is excluded from gross income, regardless whether the employee had a nonforfeitable right to this amount.

Federal law provides the same exclusion for employees and also extends the exclusion to amounts received by the estate or heirs of a self-employed individual from a qualified pension, profit-sharing, or stock bonus plan or a qualified annuity plan. This bill similarly extends the State death benefit exclusion to include certain amounts received by the estate or heirs of a self-employed individual.

Proposal 7

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Conforms State personal income tax law to recent federal change that allows the \$5,000 exclusion for death benefits received by the beneficiary or estate of an employee to apply to self-employed individuals for amount paid or distributed under a qualified pension plan.

Effective Date:

1985 income year

Fiscal Effect:

Negligible

Legislative Proposal 8

A BILL TO BE ENTITLED

AN ACT TO ALLOW CERTAIN MEMBERS OF THE ARMED FORCES WHO ARE ON EXTENDED ACTIVE DUTY A LONGER PERIOD OF TIME IN WHICH TO ROLL OVER GAIN ON THE SALE OF THEIR PRINCIPAL RESIDENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-144.2(h) is rewritten to read:

"(h) Members of the Armed Forces.--The running of a period of time specified in this section is suspended for a member of the of the United States Armed Forces for the same length of time it is suspended under Section 1034 of the Code."

Sec. 2. This act is effective upon ratification and applies to residences sold after July 18, 1984.

Explanation of Proposal:

This bill conforms State law to a recent change in federal law that extends the period of time certain members of the Armed Forces who sell their residences have to purchase a new residence without recognizing any gain realized on the sale of the old residence. Until the federal change made by the 1984 Tax Reform Act, both State and federal law allowed all members of the Armed Forces on active duty a four-year period in which to roll over gain on the sale of their principal residence. Federal law now allows some members of the Armed Forces more than four years in which to roll over gain. Members on active duty who are

stationed outside the United States or who, after returning from a station outside the United States, are required to reside in on-base government quarters because adequate off-base housing is not available at the remote base site, are allowed up to eight years in which to roll over gain on the sale of their residence.

The effective date of this bill is the same as the effective date for the change in the federal law.

Proposal 8

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Under current State personal income tax law, when military personnel assigned to extended active duty sell their principal residence, they have up to four years to purchase or build a new principal residence with a higher basis than the house they have sold in order to avoid being taxed on the capital gains. That language tracks the previous federal law, which has been changed to allow an eight-year tax-free period.

This proposal increases the tax-free period to up to eight years for State tax purposes.

Effective Date:

July 19, 1984- the same as the federal Tax Reform Act provision

Fiscal Effect:

Negligible

Legislative Proposal 9

A BILL TO BE ENTITLED

AN ACT TO ALLOW A DIVORCED OR SEPARATED PARENT TO CLAIM AN INCOME TAX DEDUCTION FOR EXPENSES FOR MEDICAL CARE FOR HIS CHILD, REGARDLESS WHETHER THE PARENT PROVIDED OVER ONE-HALF HIS CHILD'S SUPPORT FOR THE TAXABLE YEAR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-147(11)b.3. is amended by adding a new sentence to read:

"For purposes of this subdivision, a child whose parents are divorced or are living separate and apart with the intent to remain apart and who is a dependent of one of the parents is considered a dependent of both parents."

Sec. 2. This act is effective for taxable years beginning on or after January 1, 1985.

Explanation of Proposal:

This bill changes State law to conform to a recent change in federal law that permits a divorced or separated parent to claim an itemized income tax deduction for expenses for medical care for his child, even though the child may technically be a dependent of that parent's ex-spouse. Under G.S. 105-149(a)(5), a child of divorced parents is a dependent of the parent who provides the chief support for the child during the year, regardless whether that parent has custody of the child.

Proposal 9

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Under current State personal income tax law, in a situation where two parents are divorced or separated only the parent claiming a child as a dependent may take a deduction for medical expenses incurred in caring for the child.

This proposal would conform the State law to the federal law by allowing either or both parents to take the medical expense deduction, regardless of which parent claims the child as a dependent.

Effective Date:

1985 income year

Fiscal Effect:

Negligible

Legislative Proposal 10

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE RESPONSIBILITY FOR ISSUING BINGO LICENSES AND ESTABLISHING AUDIT PROCEDURES FOR BINGO ACCOUNTS FROM THE DEPARTMENT OF REVENUE TO CITIES AND COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-309.7(a) is amended by deleting the first sentence of that subsection and substituting the following:

"An exempt organization may not operate a bingo game at a location without a license. Application for a bingo license shall be made to the governing body of the city where the premises at which the organization intends to operate a bingo game are located. If the premises at which the organization intends to operate a bingo game is not in a city, application for a bingo license shall be made to the governing body of the county in which the premises are located."

Sec. 2. G.S. 14-309.11(b) and (d) are each amended by deleting the words "Department of Revenue" and substituting the words "licensing city or county".

Sec. 3. This act shall become effective July 1, 1985, and shall apply to applications to renew a bingo license or obtain a new license made on or after that date.

Explanation of Proposal:

This bill transfers the responsibility for issuing bingo licenses and establishing accounting procedures to be used in

auditing bingo accounts from the Department of Revenue to the governing body of the city or county in which a bingo game is operated. Currently, under G.S. 14-309.7, the Department of Revenue is responsible for issuing all bingo licenses even though bingo licenses are not subject to a tax and are, therefore, not revenue licenses. Furthermore, bingo licenses are not Statewide licenses, but are specific to a location. Bingo licenses are therefore more appropriately issued by the city or county where the bingo game is to be operated.

In addition to issuing a bingo license, current law also requires the Department of Revenue to develop forms to be used in auditing bingo accounts and to determine the audit schedule for bingo accounts. As with the requirement of issuing bingo licenses, this task consumes resources of the Department of Revenue that could be devoted to a revenue producing task and is more appropriately handled by the cities and counties in which the bingo games are operated.

Proposal 10

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Transfers the responsibility for issuing bingo licenses and establishing auditing procedures for bingo accounts from the Department of Revenue to counties and cities.

Effective Date:

Licenses issued or renewed on or after July 1, 1985.

Fiscal Effect:

Would free-up its personnel to perform other functions that produce tax collections.

Legislative Proposal 11

A BILL TO BE ENTITLED
AN ACT TO MAKE CLEAR THAT THE PRIVILEGE LICENSE TAX ON PERSONS
ENGAGED IN THE BUSINESS OF SELLING KNIVES AND OTHER WEAPONS DOES
NOT APPLY TO PERSONS ENGAGED IN THE BUSINESS OF SELLING
SLINGSHOTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-80(a) is amended by deleting the word and punctuation "slingshots,".

Sec. 2. This act is effective upon ratification.

Explanation of Proposal:

This bill deletes slingshots from the list of weapons whose sale requires a \$200 annual privilege license under G.S. 105-80(a). This is a technical amendment necessitated by the codifier's error in misspelling the word "slungshot". As enacted, the \$200 privilege license tax was supposed to apply to slungshots and the other weapons that are listed in the statute, such as bowie knives and metallic knuckles. In codifying the statutes, however, the word "slungshot" became "slingshot".

The Department of Revenue receives many inquiries about the "slingshot" privilege license tax. To eliminate this confusion, the word should be deleted from the statute. If slungshots are in fact still sold in North Carolina, they would be included in the statute without being specifically named because the catch-all phrase "articles of like kind" would cover slungshots.

The Department of Revenue administers G.S. 105-80(a) as if it said slungshot instead of slingshot, so the amendment will have no effect on current practice.

Proposal 11

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Amends State privilege license tax on businesses selling knives and other weapons to make it clear that tax does not apply to slingshots.

Effective Date:

Upon ratification

Fiscal Effect:

None, as Revenue Department is not levying tax at present.

Legislative Proposal 12

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE SCOPE OF THE INHERITANCE TAX EXEMPTION FOR PROPERTY PASSING TO A CHARITABLE, RELIGIOUS, OR EDUCATIONAL ORGANIZATION OR FOR A CHARITABLE, RELIGIOUS, OR EDUCATIONAL PURPOSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-3(2) is amended by deleting the phrase "benevolent," and the phrase ", benevolent,".

Sec. 2. This act is effective upon ratification.

Explanation of Proposal:

This bill removes the word "benevolent" from the statute that lists the types of property that are exempt from inheritance tax. By including the word "benevolent", the statute appears to broaden the exemption for charitable, religious, and educational bequests to include property given to accomplish a good deed or an act of friendship or good will. Neither federal law nor any other State statute exempts or provides a deduction for benevolent gifts or contributions that do not otherwise qualify as a gift for a charitable, religious, or educational purposes. Also, the courts have consistently held that a bequest to a trustee to be applied to "benevolent purposes" does not create a charitable trust.

To make clear, therefore, that bequests or devises for benevolent purposes, such as taking care of the deceased's pets, is not exempt from inheritance tax, the word "benevolent" needs to be deleted. Deleting the word "benevolent" will in no way restrict the inheritance tax exemption for property passing to a charitable, religious, or educational organization or for a charitable, religious, or educational purpose. It will simply ensure that the inheritance tax exemption is not interpreted in an unintended manner.

Proposal 12

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Clarifies the scope of the inheritance tax exemption for property passing to a charitable, religious, or educational organization or for a charitable, religious, or educational purpose.

Effective Date:

Upon ratification

Fiscal Effect:

None

Legislative Proposal 13

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE REPORTING REQUIREMENTS FOR ESTATES OF LESS THAN ONE HUNDRED THOUSAND DOLLARS IN VALUE.

The General Assembly of North Carolina enacts:

Section 1. The second sentence of G.S. 105-22 is amended by deleting the phrase "seventy-five thousand dollars (\$75,000)" and substituting the phrase "one hundred thousand dollars (\$100,000)".

Sec. 2. The second paragraph of G.S. 105-23 is amended by deleting the phrase "seventy-five thousand dollars (\$75,000)" and substituting the phrase "one hundred thousand dollars (\$100,000)".

Sec. 3. The second sentence of G.S. 28A-21-2(a) is amended by deleting the phrase "seventy-five thousand dollars (\$75,000)" and substituting the phrase "one hundred thousand dollars (\$100,000)".

Sec. 4. This act shall become effective July 1, 1985, and shall apply to the estates of decedents dying on or after that date.

Explanation of Proposal:

Currently, no inheritance tax return is required to be filed for estates whose beneficiaries are all Class A beneficiaries and whose total value does not exceed \$75,000. Also, no clerk's

report listing the beneficiaries and describing the property is required for these small estates. Chapter 1032 of the 1983 Session Laws (1984 Reg. Sess.) increased the Class A inheritance tax credit from \$3,150 to \$4,650, which exempts \$130,000 worth of property if all the property is given to the same person, and more than \$130,000 if it is given to more than one person. Because the taxable threshold for estates with only Class A beneficiaries has increased, the filing threshold needs to be increased also. Otherwise, individuals must go to the expense of preparing and the Department of Revenue must spend time reviewing returns for which no tax is due.

Proposal 13

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

In 1979 when the \$20,000 inheritance tax credit was converted to a \$3,150 Class A credit, equivalent to a minimum exemption of \$100,000, the minimum reporting threshold was increased from \$20,000 to \$75,000. The 1984 General Assembly increased the credit to \$4,650 (equivalent to a minimum exemption of \$130,000).

This proposal raises the reporting threshold to \$100,000.

Effective Date:

Applies to estates of decedents dying on or after July 1, 1985

Fiscal Effect:

None

Related Information:

The reason the reporting threshold is set slightly below the minimum exemption is to allow the Revenue Department to review returns in cases where an error could result in some taxes being due.

Legislative Proposal 14

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE NECESSITY OF OBTAINING AN INHERITANCE TAX WAIVER FOR SECURITIES DECLARED AND INTEREST ACCRUING AFTER THE DECEDENT'S DEATH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-24 is amended by inserting a new sentence between the first and second sentences of that section to read:

"Securities whose declaration date is after the decedent's death, or interest that accrues after the decedent's death on money on deposit at a bank, savings and loan association, credit union, or other corporation, however, may be transferred or delivered without retaining a portion of the property for the payment of taxes or interest and without obtaining the written consent of the Secretary to the delivery or transfer."

Sec. 2. This act is effective upon ratification.

Explanation of Proposal:

This bill eliminates the necessity of obtaining an inheritance tax waiver to transfer or deliver stock issued after the decedent's death pursuant to a stock dividend or stock split declared before the decedent's death. It also eliminates the necessity of obtaining an inheritance tax waiver to transfer or

deliver interest accruing on money on deposit after the
decedent's death.

Proposal 14

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Allows a transfer agent to transfer without an inheritance tax waiver stocks placed in the decedent's estate after the date of death due to a stock dividend or stock split that was declared subsequent to death. Also allows a bank or savings and loan association to make a similar transfer of interest on a deposit.

Effective Date:

Upon ratification

Fiscal Effect:

None

Legislative Proposal 15

A BILL TO BE ENTITLED

AN ACT TO ALLOW SPOUSES TO SHARE THEIR ANNUAL GIFT TAX EXCLUSIONS ONLY IF BOTH SPOUSES ARE RESIDENTS OF NORTH CAROLINA AND TO MAKE CONSENT TO SHARE ANNUAL EXCLUSIONS IRREVOCABLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-188(d) is amended by deleting the period at the end of that subsection and adding the following to read:

"and both spouses are residents of this State when the gift is made. Consent to share annual gift tax exclusions shall be made in writing on a timely filed gift tax return. Once given, consent to share annual exclusions is irrevocable."

Sec. 2. This act is effective upon ratification and applies to gifts and transfers made on or after January 1, 1985.

Explanation of Proposal:

This bill makes a technical amendment to Chapter 1024 of the 1983 Session Laws (2nd Session 1984), which allows one spouse to apply both his gift tax annual exclusion and his spouse's annual exclusion to gifts made to anyone other than his spouse. This bill restricts the sharing of annual exclusions to spouses who are both residents of North Carolina when the gift is made, requires consent to share exclusions to be made in writing on the

gift tax return, and provides that consent to share exclusions is irrevocable.

Proposal 15

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

The 1984 General Assembly enacted a law whereby one spouse can claim the other spouse's \$10,000 annual gift-tax exclusion if the second spouse consents.

This proposal makes it clear that the gift-sharing arrangement applies only if both spouses are residents of North Carolina and that the consent is irrevocable.

Effective Date:

Gifts made on or after January 1, 1985.

Fiscal Effect:

None

Legislative Proposal 16

A BILL TO BE ENTITLED
AN ACT MAKING A TECHNICAL CORRECTION TO THE REVENUE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-195 is amended by deleting the word "Commissioner" and substituting the word "Secretary".

Sec. 2. This act is effective upon ratification.

Explanation of Proposal:

This bill makes a technical amendment to G.S. 105-195, concerning the value of property for gift tax purposes, to delete an incorrect reference to the Secretary of the Department of Revenue as the Commissioner of Revenue.

Proposal 16

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Corrects an outdated reference in revenue laws to "Commissioner" of Revenue.

Effective Date:

Upon ratification

Fiscal Effect:

None

Legislative Proposai 17

A BILL TO BE ENTITLED
AN ACT TO REPEAL THE SALES TAX EXEMPTION FOR ICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.13(6) is repealed.

Sec. 2. This act shall become effective July 1, 1985.

Explanation of Proposal 17:

This bill repeals the sales tax exemption for ice. It does not affect wholesale sales of ice or ice sold to a commercial fisherman for use in his fishing operations. Ice sold to fishermen would remain exempt from sales tax as part of the supplies used by commercial fishermen in fishing operations, G.S. 105-164.13(9).

The sales tax exemption for ice was enacted in 1937 by Section 406 of Chapter 127 of the Public Laws and was an extension of the exemption for certain food items. At that time, most people had "ice-boxes" rather than electric refrigerators, and ice was used principally to preserve food.

Given that food is no longer exempt from sales and use taxes and that modern refrigerators make ice rather than use ice to preserve food, the exemption for ice is an anachronism. Even the wording of this exemption, which refers to wholesale as well as retail merchants, is obsolete. When the exemption was enacted, a sales tax was levied on both wholesale sales and retail sales, with the wholesale rate set at 1/20th of 1% of gross sales and the retail rate at 3% of gross sales. Under current law, only retail sales are subject to sales tax.

Proposal 17

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Repeals State sales tax exemption for ice.

Effective Date:

July 1, 1985

Fiscal Effect:

Increases General Fund tax revenue by \$270,000 for 1985-86 (11 collection months) and \$316,000 for 1986-87, and increases local sales tax revenue by \$125,000 for 1985-86 and \$145,000 for 1986-87.

Related Information:

- (1) The exemption dates back to a period when the use of "ice boxes" was prevalent in storing food. When the exemption for food was repealed in 1961, ice was not included in the food category.
- (2) The proposal does not affect the exemption for ice sold to commercial fishermen.

Legislative Proposal 18

A BILL TO BE ENTITLED
AN ACT TO TAX ALL HORSES EXCEPT DRAFT HORSES AT THE GENERAL STATE
AND LOCAL SALES TAX RATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(1) is amended by deleting
the phrase "a. Horses or mules by whomsoever sold." and
substituting the phrase "a. Draft horses and mules."

Sec. 2. G.S. 105-164.13(3) is rewritten to read:

"(3) Products of farms, other than horses, in their
original or unmanufactured state when sold by the producer in the
capacity of producer, and products of forests and mines in their
original or unmanufactured state when sold by the producer in the
capacity of producer."

Sec. 3. This act shall become effective July 1, 1985.

Explanation of Proposal 18:

This bill makes the sale of horses, other than draft horses, by a person engaged in the business of selling horses subject to sales tax at the 3% State rate and the local sales taxes. Currently, horses are taxed at a State sales tax rate of 1% and are exempt from local sales tax. Draft horses, which are large work horses, would remain subject to the State rate.

Section 1 of the bill narrows the current preferential category to draft horses and mules, and section 2 of the bill removes horses from the sales tax exemption for products of a farm in their original state. Without section 2, sales of horses by a person engaged in the business of raising and selling horses would still be exempt as a product of a farm.

The preferential sales tax rate for horses and mules was enacted in 1961; prior to 1961 horses and mules were exempt from sales and use taxes. Chapter 158 of the 1959 Public Laws exempted horses and mules from sales tax because the vast majority of them were used on the farm in agricultural production and because that same act imposed a "per head" tax of \$3.00 on every horse and mule purchased by a horse or mule dealer for resale. The "per head" tax was part of the privilege license tax. The exemption of horses and mules from sales tax, therefore, was intended to prevent placing an undue tax burden on the sale of horses and mules.

Chapter 826 of the 1961 Session Laws repealed the exemption for horses and mules but placed horses and mules, along with several other items that were previously exempt from tax, in a

special category to be taxed at a rate of 1%. The "per head" tax on horses and mules was still in effect in 1961, but was subsequently repealed by Chapter 1057 of the 1973 Session Laws, and the privilege license tax for horse and mule dealers was repealed in its entirety by Chapter 69 of the 1979 Session Laws.

Given the repeal of the "per head" tax on horses, the repeal of the privilege license tax on horse and mule dealers, and the change in the use of horses since 1961 from primarily agricultural uses to primarily sport and recreation uses, the rationale for the original exemption and current preferential treatment for horses no longer exists.

Even if horses were subject to the general state rate of 3%, many sales of horses would not be subject to sales tax because the sale is not made by a horse dealer. As with all items, the sale of a horse by a person who is not a retail dealer of horses would be a casual sale and would, therefore, be exempt from sales tax.

Proposal 18

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Under current State sales tax law the sale of horses and mules is taxed at 1% instead of 3%.

This proposal leaves the rate at 1% for draft horses and mules but raises the rate to 3% for other horses.

Effective Date:

July 1, 1985

Fiscal Effect:

Negligible, as most sales are casual (non-dealer) in nature and the sales tax does not generally apply to casual sales.

Legislative Proposal 19

A BILL TO BE ENTITLED
AN ACT TO INCREASE THE PARTIAL SALES TAX EXEMPTION FOR FUNERAL
EXPENSES TO ACCOUNT FOR INFLATION.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 105-164.13(18) is amended by deleting the phrase "one hundred and fifty dollars (\$150.00)" and substituting the phrase "five hundred dollars (\$500.00)".

Sec. 2. This act shall become effective July 1, 1985.

Explanation of Proposal 19:

This bill increases the amount of funeral expenses that are exempt from sales tax from \$150.00 to \$500.00. The term "funeral expenses" includes the cost of tangible personal property, such as a coffin or casket, as well as the charge for services rendered.

The partial exemption for funeral expenses was enacted in 1957 by Chapter 1340 of the 1957 Session Laws and, except for refinements of the definitions of "funeral expenses" and "services rendered", has not been changed since then. From 1939 to 1957, coffins and caskets whose value did not exceed \$100.00 were exempt from sales tax, and services rendered by the staff of the funeral home were not subject to tax.

The cost of a funeral has risen dramatically since 1957, and the intended benefit of this exemption has been greatly reduced by the effect of inflation. To adjust for inflation, the \$150.00 exemption needs to be increased to \$475.00. The cost of a funeral, however, has risen more than the inflation rate.

Summary of Proposal:

Presently there is a sales tax exemption of up to \$150 of funeral expenses, including coffins, caskets, and "services rendered" in connection with funerals. The term "services rendered" does not include laundering, dry cleaning, or pressing, all of which are taxed at 3% under G.S. 105-164.4(4). It also does not include services performed by barbers, beauticians, cosmetologists, or hairdressers employed by, or at the specific direction of, the family or personal representative. In a case where coffins or caskets are purchased direct and a separate charge is paid for the funeral service, the \$150 exemption applies to the total charges.

This proposal would increase the \$150 exemption to \$500.

Effective Date:

July 1, 1985

Fiscal Effect:

Would reduce General Fund tax revenue by \$595,000 for 1985-86 (11 collection months) and \$660,000 for 1986-87, and would reduce local sales tax revenue by \$285,000 for 1985-86 and \$315,000 for 1986-87.

Related Information:

The \$150 exemption was first enacted in 1957. To adjust for inflation as measured by the Consumer Price Index would require a \$475.00 exemption. The nationwide average funeral cost has risen from \$515-\$640 in 1957 to an estimated \$2,135-\$2,475 for 1985. To adjust for the increase in the cost of funerals would lead to a \$580-\$622 exemption.

Legislative Proposal 20

A BILL TO BE ENTITLED
AN ACT REGARDING A CERTIFICATE OF RESALE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.28 is rewritten to read:

"§ 105-164.28. Certificate of resale.--Any tangible personal property sold by a merchant, who has taken from the purchaser a certificate of the purchaser to the effect that the property sold is for resale, shall be presumed to be sold for resale. The purchaser's certificate shall relieve the merchant of the burden of proof that the sale was for resale, provided that such purchaser's certificate is taken by the merchant in good faith from a purchaser who is engaged in the business of selling tangible personal property and who holds the license provided for in this Article. The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the registration number issued to the purchaser, and shall indicate the general character of the tangible personal property generally sold by the purchaser in the regular course of business. The certificate of resale shall be in such form as the Secretary shall prescribe. A sale shall not be presumed to be for resale if the merchant took the purchaser's certificate of resale on bad faith. A purchaser who uses property purchased under a certificate of resale is liable for use tax on such merchandise. A purchaser who misuses a certificate of resale is subject to a penalty of five hundred

dollars (\$500.00). As used in this section, the term "merchant" means a retail merchant or a wholesale merchant."

Sec. 2. This act is effective upon ratification.

Explanation of Proposal 20:

This bill rewrites G.S. 105-164.28, which authorizes the use of a certificate of resale and states the effect of a certificate of resale on the normal presumption under State sales tax law that all sales are retail sales. A certificate of resale is simply a form that contains the name, address, and type of business of the purchaser and that states that the purchaser intends to resell the merchandise purchased. Currently, acceptance of a certificate of resale removes the presumption that the sale was a retail sale if the seller acted in good faith in accepting the certificate, which includes an obligation to make a "reasonable and prudent" inquiry into the purchaser's intended use of the merchandise purchased.

The bill shifts the emphasis of G.S. 105-164.28 from the responsibilities of a seller who accepts a certificate of resale to those of the purchaser who offers the certificate. The bill changes current law as follows:

- (1) The bill goes a step beyond the statement in the current provision that a sale under a certificate of resale is not presumed to be a retail sale and states that a sale under a certificate of resale is presumed to be a sale for resale, or a wholesale sale.
- (2) It deletes the requirement that the seller make a reasonable and prudent inquiry into the purchaser's intended use of the merchandise purchased, thereby allowing a seller who acts in good faith to rely on the certificate without making additional inquiries.

- (3) It specifically states that a purchaser who buys merchandise under a certificate of resale and who uses the merchandise himself instead of reselling it is liable for use tax on the merchandise. The Department of Revenue currently assesses these purchasers for use tax; this statement simply gives the Department a clear statement of authority for this practice.
- (4) It adds a \$500 penalty for purchasers who misuse a certificate of resale. Currently, the Department must rely on the general fraud penalty in G.S. 105-236(6), which is 50% of the amount of tax due. The fraud penalty would still be available to the Department; this penalty simply adds another deterrent to misuse of a certificate of resale.

Proposal 20

Fiscal Report
Fiscal Research Division
December 6, 1984

Summary of Proposal:

Amends State sales and use tax law regarding duty of wholesale or retail merchant making an exempt wholesale sale by no longer requiring merchant to make an inquiry into purchaser's intended use of the product. The proposal also makes it clear that purchaser is liable for use tax on property and puts a \$500 penalty on a purchaser who misuses a certificate of resale.

Effective Date:

Upon ratification

Fiscal Effect:

None

Legislative Proposal 21

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO CONTINUE TO STUDY THE REVENUE LAWS OF NORTH CAROLINA.

Whereas, the Legislative Research Commission has been authorized by the 1977, 1979, 1981, and 1983 General Assemblies to conduct a study of the revenue laws of North Carolina; and

Whereas, since 1977 the committee appointed by the Legislative Research Commission to study the revenue laws has recommended many changes in the revenue laws in the committee's attempt to improve these laws; and

Whereas, the Revenue Laws Study Committee has proved to be an excellent forum for both taxpayers and tax administrators to present their complaints with existing law and make suggestions to improve the law;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is authorized to study the revenue laws of North Carolina and the administration of these laws. The Commission may review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable. When the recommendations of the Commission, if enacted, would result in an increase or decrease in State tax revenues, the report of

the Commission shall include an estimate of the amount of the increase or decrease.

Sec. 2. The Commission may call upon the Department of Revenue to cooperate with it in its study of the revenue laws. The Secretary of Revenue shall ensure that the Department's staff cooperates fully with the Commission.

Sec. 3. The Commission shall make a final report of its recommendations for improvement of the revenue laws to the 1987 General Assembly and may make an interim report to the 1985 General Assembly, Regular Session 1986.

Sec. 4. This resolution is effective upon ratification.

Explanation of Proposal 21:

This joint resolution simply authorizes the Legislative Research Commission to continue to study the revenue laws of this State. The resolution gives the study of the revenue laws a broad scope and permits the Commission to make both an interim report and a final report on the results of its study of the revenue laws.

Appendix A
GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1983
RATIFIED BILL

CHAPTER 905
HOUSE BILL 1142

AN ACT AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION AND BY THE COMMISSION ON CHILDREN WITH SPECIAL NEEDS AND MAKING TECHNICAL AMENDMENTS RELATING THERETO.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1983 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

- (1) Continuation of the Study of Revenue Laws (H.J.R. 16 - Lilley); and the ramifications, if enacted, of H.B. 746, Appraisal of Subdivided Tract (Auman) and H.B. 1250, No Intangible Tax/Income Surtax (Auman),
- (2) Continuation of the Study on the Problems of the Aging (H.J.R. 44 - Economos; S.J.R. 16 - Gray),
- (3) Continuation of the Study on Insurance Regulation (H.B. 63 - Seymour) and Insurance Laws and Regulation of Insurance Industry (H.B. 1243 - Hightower),
- (4) Teaching of Computer Literacy in the Public Schools and Community Colleges (H.J.R. 191 - Berry) and the Continuation of Study of College Science Equipment (H.J.R. 898 - Enloe),
- (5) Adequacy of State Management of Large-Scale Land Clearing and Peat Mining (H.J.R. 220 - Evans),
- (6) Adequacy of Existing Water Pollution Control Programs to Improve and Protect Water Quality in the State (H.J.R. 232 - Evans),
- (7) Marketing of Seafood by Fishermen (H.J.R. 896 - Chapin),
- (8) Continuation of Study on the Economic Social and Legal Problems and Needs of Women (H.J.R. 904 - Easterling; S.J.R. 329 - Marvin),
- (9) Regulation of Nonpublic and Public Post-Secondary Educational Institutions (Joint Resolution 33 (H.J.R. 988 - Thomas)),
- (10) Readable Insurance Policies (H.B. 1069 - Ballance),
- (11) State Government Risk Management (H.J.R. 1083 - Seymour),
- (12) Biotechnology Development (H.B. 1122 - Etheridge, Bobby and H.J.R. 1282 - Etheridge, Bobby; S.J.R. 620 - Hancock),
- (13) Continuation of Study of the State's Interest in Railroad Property (H.B. 1142 - Hunt),
- (14) Restricting Driving by Minors (H.J.R. 1149 - J. Jordan),

- (15) Health Professionals (H.J.R. 1194 - Diamond),
- (16) Water Quality in Haw River and B. Everett Jordan Reservoir (H.J.R. 1257 - Hackney),
- (17) Regulation of Alcoholic Beverages on State Property (H.J.R. 1292 - Clark),
- (18) Disposition of Animals by Animal Shelters and Pounds (H.J.R. 1309 - Stamey),
- (19) Boards, Commissions, and Councils in the Executive Branch (H.J.R. 1321 - Hunt),
- (20) Feasibility of a Food Distribution Facility on Dix Farm Property in Raleigh (H.J.R. 1334 - James),
- (21) Implementation of Identification and Labelling of Toxic or Hazardous Substances as Proposed by House Bill 1339 (Payne),
- (22) Water Resources Issues Involving North Carolina and Virginia (H.J.R. 1404 - Church),
- (23) Investment Guidelines for Eleemosynary Institutions and Funds (H.J.R. 1423 - Musselwhite),
- (24) Child Support Collection Procedures (H.J.R. 1439 - Easterling; S.J.R. 675 - Woodard, W.),
- (25) Contamination of Unpackaged Foods (H.J.R. 1441 - Stamey),
- (26) Legislative Communications Confidentiality (H.R. 1461 - Miller),
- (27) Continuation of the Study of Information Processing Resources in State Government (S.J.R. 44 - Alford),
- (28) Regulation and Taxation of Banks, Savings and Loans and Credit Unions (S.J.R. 381 - Edwards of Caldwell),
- (29) District Attorney Standards (S.B. 496 - Hipps),
- (30) Cost of Providing Attorneys and Guardians Ad Litem to Indigents (S.J.R. 643 - Swain),
- (31) Public Health Facility Laws (S.J.R. 656 - Hancock), and Review of Certificate of Need Procedures (H.J.R. 1294 - Economos),
- (32) Life Care Arrangements (S.J.R. 657 - Hancock),
- (33) Worthless Checks (S.J.R. 661 - Thomas of Henderson),
- (34) State-owned Rental Housing as contained in Section 2 of this act,
- (35) User Fees at State-owned Facilities, as contained in Section 3 of this act,
- (36) Motorboat Titles and Liability Insurance, as contained in Section 4 of this act,
- (37) Motor Vehicle Inspection Program, as contained in Section 5 of this act,
- (38) Continuation of the Study of Day Care (H.J.R. 594 - Colton),
- (39) Continuation of the Study on Twelfth Grade (H.J.R. 753 - Mauney; S.J.R. 343 - Tally),
- (40) Procedure for Incorporating Municipalities (S.J.R. 445 - J. Edwards),
- (41) Solar Law (S.J.R. 670 - Walker),

(42) Statutory lien. (S.J.R. 680 - Edwards of Caldwell),
(43) In-service Training of Teachers in North Carolina History, the American Economic System, Free Enterprise Concepts, and Legal Topics (H.B. 1281 - Foster).

Sec. 2. State-owned Rental Housing. (a) The Legislative Research Commission is authorized to conduct a study of all State-owned rental housing during the 1983-84 fiscal year and to recommend a comprehensive statewide rental policy, to be administered by the Department of Administration, to the 1984 Session of the General Assembly. This study shall be conducted in consultation with the department that owns the housing. In conducting this study, the Commission shall first determine the amount of nonessential rental housing currently owned by the State using the following criteria: The geographic location of the State property on which the housing is located and its proximity to alternative privately owned housing; the amount of time that would be required for employees to arrive at the State property on which housing is now located in the event of an emergency; the amount of security necessary for State property that is now being provided by State employees living in State-owned rental housing; and any other benefits to the State for employees to occupy said housing. The Commission shall recommend the disposition of nonessential rental property by one of three means: sale of the housing and property on which it is located; sale of the housing unit only with the stipulation that the house be removed from State property; and conversion of the housing unit to an alternative use.

(b) It is the policy of the State of North Carolina that the State provide rental housing only in cases in which an essential State purpose is served. Nothing in these sections shall be construed to mean that State departments may not continue to divest themselves of nonessential rental housing during the course of the Legislative Research Commission study.

Sec. 3. User Fees. The Legislative Research Commission is authorized to study the potential for user charges and admission fees at State-owned cultural, recreational and historical facilities. The study may cover museums, historic sites, marine resource centers as well as other facilities. The Legislative Research Commission may make an interim report to the 1984 Regular Session of the 1983 General Assembly and may make a final report to the 1985 General Assembly.

Sec. 4. Motorboat Titles and Liability Insurance. The Legislative Research Commission of the General Assembly is authorized to study the issue of motorboat titles and liability insurance. The study may include start-up and administrative costs, potential revenues, phase-in plans, financial institution requirements, etc. The Commission may report to the 1984 Session.

Sec. 5. Motor Vehicle Inspection Program Study. The Legislative Research Commission may study the effectiveness of the motor vehicle inspection program required by Article 3A of Chapter 20 of the General Statutes. The study may consider, among other aspects, the impact on highway safety, cost

effectiveness of the program, and probable impact of eliminating part or all of the program.

Sec. 6. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1984 Session of the General Assembly or to the 1985 General Assembly, or the Commission may make an interim report to the 1984 Session and a final report to the 1985 General Assembly.

Sec. 7. G.S. 120-30.17 is amended by adding two new subsections to read:

"(7) to obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.

(8) to call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena."

Sec. 8. Section 1 of Chapter 1372, Session Laws of 1981, is amended by deleting "as authorized in Section 2 of Resolution 61, Session Laws of 1981".

Sec. 9. Section 1(3) of Chapter 1372, Session Laws of 1981, is amended by deleting "1983 Session", and inserting in lieu thereof "1983 and 1985 Sessions".

Sec. 10. G.S. 124-5 is amended by deleting "June 1, 1983", and inserting in lieu thereof "the date of convening of the 1985 Regular Session of the General Assembly".

Sec. 11. The last sentence of G.S. 124-5 is amended by deleting "11-month period", and inserting in lieu thereof "period ending on convening of the 1985 Regular Session."

Sec. 12. Deaf/Blind School Move--Commission on Children with Special Needs. (a) The Commission on Children with Special Needs, established by Article 12 of Chapter 120 of the General Statutes, may study the issue of transferring the State schools for the Deaf and the Governor Morehead School for the Blind to the jurisdiction of the State Board of Education.

(b) The Commission may make a final report to the Second Session of the 1983 General Assembly. (H.J.R. 246 - Fenner)

Sec. 13. Bills and Resolution References. The listing of the original bill or resolution in this act is for references purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 14. This act is effective upon ratification.
In the General Assembly read three times and ratified,
this the 21st day of July, 1983.

JAMES C. GREEN

James C. Green
President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1983

H

I
14
15

HOUSE JOINT RESOLUTION 16

Sponsors: Representatives Lilley, Beall, Holt, Jordan.

Referred to: Rules.

January 14, 1983

1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO CONTINUE TO STUDY THE REVENUE LAWS OF NORTH
3 CAROLINA.

4 Whereas, the Legislative Research Commission has been
5 authorized by the 1977, 1979, and 1981 General Assemblies to
6 conduct a study of the revenue laws of North Carolina; and

7 Whereas, since 1977 the committee appointed by the
8 Legislative Research Commission to study the revenue law has
9 recommended many changes in the revenue laws in the committee's
10 attempt to improve these laws; and

11 Whereas, the Revenue Laws Study Committee has proved to
12 be an excellent forum for both taxpayers and tax administrators
13 to present their complaints with existing law and make
14 suggestions to improve the law;

15 Now, therefore, be it resolved by the House of Representatives,
16 the Senate concurring:

17 Section 1. The Legislative Research Commission is
18 authorized to study the revenue laws and their administration in
19 North Carolina. The Commission may review the revenue laws of
20 this State to determine which laws need clarification, technical
21

1 amendment, repeal, or other change to make the laws as concise,
2 intelligible, administratively responsive, and efficient as is
3 reasonably practicable. When the recommendations of the
4 Commission, if enacted, would result in an increase or decrease
5 in State tax revenues, the report of the Commission shall include
6 an estimate of the amount of the increase or decrease.

7 Sec. 2. The Commission may call upon the Department of
8 Revenue to cooperate with it in its study. The Secretary of
9 Revenue shall ensure that the Department's staff cooperates fully
10 with the Commission.

11 Sec. 3. The Commission shall make a final report of its
12 recommendations for improvement of the revenue laws to the 1983
13 General Assembly and may make an interim report to the 1984
14 General Assembly, Second Session 1984.

15 Sec. 4. This resolution is effective upon ratification.
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
990
991
992
993
994
995
996
997
998
999
1000
1001
1002
1003
1004
1005
1006
1007
1008
1009
1000
1001
1002
1003
1004
1005
1006
1007
1008
1009
1010
1011
1012
1013
1014
1015
1016
1017
1018
1019
1010
1011
1012
1013
1014
1015
1016
1017
1018
1019
1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1030
1031
1032
1033
1034
1035
1036
1037
1038
1039
1030
1031
1032
1033
1034
1035
1036
1037
1038
1039
1040
1041
1042
1043
1044
1045
1046
1047
1048
1049
1040
1041
1042
1043
1044
1045
1046
1047
1048
1049
1050
1051
1052
1053
1054
1055
1056
1057
1058
1059
1050
1051
1052
1053
1054
1055
1056
1057
1058
1059
1060
1061
1062
1063
1064
1065
1066
1067
1068
1069
1060
1061
1062
1063
1064
1065
1066
1067
1068
1069
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1080
1081
1082
1083
1084
1085
1086
1087
1088
1089
1080
1081
1082
1083
1084
1085
1086
1087
1088
1089
1090
1091
1092
1093
1094
1095
1096
1097
1098
1099
1090
1091
1092
1093
1094
1095
1096
1097
1098
1099
1100
1101
1102
1103
1104
1105
1106
1107
1108
1109
1100
1101
1102
1103
1104
1105
1106
1107
1108
1109
1110
1111
1112
1113
1114
1115
1116
1117
1118
1119
1110
1111
1112
1113
1114
1115
1116
1117
1118
1119
1120
1121
1122
1123
1124
1125
1126
1127
1128
1129
1120
1121
1122
1123
1124
1125
1126
1127
1128
1129
1130
1131
1132
1133
1134
1135
1136
1137
1138
1139
1130
1131
1132
1133
1134
1135
1136
1137
1138
1139
1140
1141
1142
1143
1144
1145
1146
1147
1148
1149
1140
1141
1142
1143
1144
1145
1146
1147
1148
1149
1150
1151
1152
1153
1154
1155
1156
1157
1158
1159
1150
1151
1152
1153
1154
1155
1156
1157
1158
1159
1160
1161
1162
1163
1164
1165
1166
1167
1168
1169
1160
1161
1162
1163
1164
1165
1166
1167
1168
1169
1170
1171
1172
1173
1174
1175
1176
1177
1178
1179
1170
1171
1172
1173
1174
1175
1176
1177
1178
1179
1180
1181
1182
1183
1184
1185
1186
1187
1188
1189
1180
1181
1182
1183
1184
1185
1186
1187
1188
1189
1190
1191
1192
1193
1194
1195
1196
1197
1198
1199
1190
1191
1192
1193
1194
1195
1196
1197
1198
1199
1200
1201
1202
1203
1204
1205
1206
1207
1208
1209
1200
1201
1202
1203
1204
1205
1206
1207
1208
1209
1210
1211
1212
1213
1214
1215
1216
1217
1218
1219
1210
1211
1212
1213
1214
1215
1216
1217
1218
1219
1220
1221
1222
1223
1224
1225
1226
1227
1228
1229
1220
1221
1222
1223
1224
1225
1226
1227
1228
1229
1230
1231
1232
1233
1234
1235
1236
1237
1238
1239
1230
1231
1232
1233
1234
1235
1236
1237
1238
1239
1240
1241
1242
1243
1244
1245
1246
1247
1248
1249
1240
1241
1242
1243
1244
1245
1246
1247
1248
1249
1250
1251
1252
1253
1254
1255
1256
1257
1258
1259
1250
1251
1252
1253
1254
1255
1256
1257
1258
1259
1260
1261
1262
1263
1264
1265
1266
1267
1268
1269
1260
1261
1262
1263
1264
1265
1266
1267
1268
1269
1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1280
1281
1282
1283
1284
1285
1286
1287
1288
1289
1280
1281
1282
1283
1284
1285
1286
1287
1288
1289
1290
1291
1292
1293
1294
1295
1296
1297
1298
1299
1290
1291
1292
1293
1294
1295
1296
1297
1298
1299
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1310
1311
1312
1313
1314
1315
1316
1317
1318
1319
1310
1311
1312
1313
1314
1315
1316
1317
1318
1319
1320
1321
1322
1323
1324
1325
1326
1327
1328
1329
1320
1321
1322
1323
1324
1325
1326
1327
1328
1329
1330
1331
1332
1333
1334
1335
1336
1337
1338
1339
1330
1331
1332
1333
1334
1335
1336
1337
1338
1339
1340
1341
1342
1343
1344
1345
1346
1347
1348
1349
1340
1341
1342
1343
1344
1345
1346
1347
1348
1349
1350
1351
1352
1353
1354
1355
1356
1357
1358
1359
1350
1351
1352
1353
1354
1355
1356
1357
1358
1359
1360
1361
1362
1363
1364
1365
1366
1367
1368
1369
1360
1361
1362
1363
1364
1365
1366
1367
1368
1369
1370
1371
1372
1373
1374
1375
1376
1377
1378
1379
1370
1371
1372
1373
1374
1375
1376
1377
1378
1379
1380
1381
1382
1383
1384
1385
1386
1387
1388
1389
1380
1381
1382
1383
1384
1385
1386
1387
1388
1389
1390
1391
1392
1393
1394
1395
1396
1397
1398
1399
1390
1391
1392
1393
1394
1395
1396
1397
1398
1399
1400
1401
1402
1403
1404
1405
1406
1407
1408
1409
1400
1401
1402
1403
1404
1405
1406
1407
1408
1409
1410
1411
1412
1413
1414
1415
1416
1417
1418
1419
1410

H

I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1983

HOUSE BILL 746

Short Title: Appraisal of Subdivided Tract.

(Public)

Sponsors. Representatives Auman; Owens, Holt, McAlister.

Referred to: Finance.

April 8, 1983

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CERTAIN LAND HELD BY THE OWNER OF A
SUBDIVIDED TRACT SHALL BE APPRAISED AS ACREAGE INSTEAD OF AS
LOTS.

The General Assembly of North Carolina enacts:

Section 1. Article 1³ of Chapter 105 is amended by adding a new section to read:

"§ 105-284.1. Appraisal of land held by owner of subdivided tract.--When a tract of land has been divided into lots, and more than five acres of the tract remain unsold by the owner, the unsold portion shall be appraised as land acreage instead of as lots."

Sec. 2. G.S. 105-287(b) (4) is amended by deleting the second sentence thereof.

Sec. 3. This act is effective upon ratification and applies to taxable years beginning on or after January 1, 1983.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1983

HOUSE BILL 1250

Short Title: No Intangible Tax/Income Surtax. (Public)

Sponsors: Representatives Auman; Anderson, Barker, Colton, Evans,
Foster, Helms, Holt, James, Lee, McDowell, Murphy, Musselwhite,*
Referred to: Finance.

June 9, 1983

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE TAX ON INTANGIBLE PERSONAL PROPERTY, TO
IMPOSE AN INCOME TAX SURTAX, TO REIMBURSE COUNTIES FOR THE LOSS
OF INTANGIBLES TAX REVENUE, AND TO MAKE VARIOUS APPROPRIATIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 105, G.S. 105-276, and
G.S. 105-305 are repealed.

Sec. 2. G.S. 105-275 is amended by adding a new
subdivision to read:

"(29) Intangible personal property."

Sec. 3. G.S. 105-115(2) is amended by deleting the
phrase "property, tangible and intangible," and inserting in lieu
thereof the phrase "tangible property".

Sec. 4. G.S. 105-120.2 is amended as follows:

(1) by deleting the phrase "plus the total appraised
value of intangible property returned for taxation of intangible
personal property as computed under G.S. 105-122(d)" in (b)(2)a.
of that section; and

(2) by deleting subsection (d) of that section.

Sec. 5. G.S. 105-122(d) is amended as follows:

1 (1) by deleting the phrase "plus the total appraised
2 value of intangible property returned for taxation of intangible
3 personal property as herein specified" in the first sentence of
4 that subsection;

5 (2) by deleting the fourth and fifth sentences of the
6 first paragraph of that subsection; and

7 (3) by deleting the second paragraph of that
8 subsection.

9 Sec. 6. G.S. 105-285(b) is amended by deleting the
10 phrase "personal property, both tangible and intangible," and
11 inserting in lieu thereof the phrase "tangible personal
12 property".

13 Sec. 7. G.S. 105-288(d) is repealed.

14 Sec. 8. G.S. 105-333(3) and (17) are each amended by
15 deleting the words "and intangible".

16 Sec. 9. The first sentence of G.S. 108A-93 is amended
17 by inserting between the words "any" and "tax" the phrase "funds
18 to be distributed to a county under G.S. 105-396 or any"; and is
19 further amended by deleting the phrase "Article 7 of Chapter 105
20 of the General Statutes,".

21 Sec. 10. Subchapter II of Chapter 105 of the General
22 Statutes is amended by adding a new Article to read:

23 "Article 31.

24 "Reimbursement for Repeal of Intangible Personal
25 Property Tax.

26 "§ 105-396. Intangibles Tax Reimbursement.--As soon as
27 practicable after the close of each fiscal year, the Secretary of
28

1 Revenue shall distribute to all counties and their municipalities
2 the amount of intangibles tax revenue distributed to them at the
3 close of the preceding fiscal year, plus or minus the percentage
4 of this amount that equals the rate of inflation for the
5 preceding fiscal year, as determined by the Consumer Price Index
6 for Urban Wage Farmers and Clerical Workers, all items, as
7 computed by the Bureau of Labor Statistics of the United States
8 Department of Labor."

9 Sec. 11. Division I of Article 4 of Chapter 105 is
10 amended by adding a new section immediately after G.S. 105-130.3
11 to read:

12 "§ 105-130.3A. Income tax surtax.--In addition to the income
13 tax imposed by G.S. 105-130.3, each corporation required to file
14 a return under this Division shall pay an income tax surtax equal
15 to three and two-tenths percent (3.2%) of the amount of income
16 tax payable by the corporation to the State for the income year.
17 This tax is due on or before the fifteenth day of the third month
18 following the close of the corporation's income year."

19 Sec. 12. Division II of Article 4 of Chapter 105 is
20 amended by adding a new section immediately following G.S. 105-
21 136 to read:

22 "§ 105-136.1. Income tax surtax.--In addition to the income
23 tax imposed by G.S. 105-136, every individual required to file a
24 return under this Division shall pay an income tax surtax equal
25 to three and two-tenths percent (3.2%) of the amount of income
26 tax payable by the individual to the State for the income year.
27 This tax is due at the time prescribed for filing income tax
28

1 returns in G.S. 105-155."

2 Sec. 13. Division III of Article 4 of Chapter 105 is
3 amended by adding a new section immediately after G.S. 105-161 to
4 read:

5 "§ 105-161.1. Income tax surtax.--In addition to the income
6 tax imposed by G.S. 105-161, every estate or trust required to
7 file a return under this Division shall pay an income tax surtax
8 equal to three and two-tenths percent (3.2%) of the amount of
9 income tax payable by the estate or trust to the State for the
10 income year. This tax is due at the time prescribed for filing
11 income tax returns in G.S. 105-161(h)."

12 Sec. 14. There is appropriated from the General Fund to
13 the Property Tax Commission and the Ad Valorem Tax Division of
14 the Department of Revenue the sum of four hundred seventy-five
15 thousand dollars (\$475,000) for fiscal year 1983-84 for operating
16 expenses of the Division and the Commission during the 1983-84
17 fiscal year.

18 Sec. 15. There is appropriated from the General Fund to
19 the Board of Governors for The University of North Carolina the
20 sum of seventy-five thousand dollars (\$75,000) for fiscal year
21 1983-84 for the Institute of Government to conduct a training
22 program in property tax appraisal and assessment administration
23 during the 1983-84 fiscal year.

24 Sec. 16. Sections 1-3, 6-8, and 11-13 of this act are
25 effective for taxable years beginning on or after January 1,
26 1983. Sections 4 and 5 shall become effective for taxable years
27 beginning on or after January 1, 1984. Sections 9 and 10 shall
28

1 become effective July 1, 1984. Sections 14 and 15 shall become
2 effective July 1, 1983. The first distribution under Section 10
3 shall be made at the close of the 1983-84 fiscal year.

4 _____

5 *Additional Sponsors: Owens, Payne, Seymour.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Appendix P

REVENUE LAWS

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP - 1983 - 1984

Rep. Daniel T. Lilley
Cochairman
P. O. Box 824
Kinston, North Carolina 28501
(H) 919-523-4524
(O) 919-523-4309

Sen. Marshall A. Rauch
Cochairman
1121 Scotch Drive
Gastonia, North Carolina 28052
(H) 704-867-1616
(O) 704-867-5000

Rep. T. Clyde Auman
Route 1, Box 224
West End, North Carolina 27376
(H) 919-673-4391
(O) 919-673-4391

Sen. Jack Childers
One Childers Court
Lexington, North Carolina 27292
(H) 704-246-2142
(O) 704-249-0622

Rep. Sidney A. Locks
P. O. Box 290
Lumberton, North Carolina 28358
(H) 919-739-3550
(O) 919-739-7202

Sen. Kenneth R. Harris
1901 Providence Road
Charlotte, North Carolina 28211
(H) 704-364-4402
(O) 704-373-1835

Rep. Josephus L. Mavretic
601 Saint Andrew
Tarboro, North Carolina 27886
(H) 919-823-7419
(O) 919-823-0366

Mr. Robert H. Merritt, Jr.
2623 Fairview Road
Raleigh, North Carolina 27608
(H) 919-781-3529
(O) 919-821-4900

Rep. Murray P. Pool
112 Sycamore Street
P. O. Box 779
Clinton, North Carolina 28328
(H) 919-592-7141
(O) 919-592-2662

Sen. William W. Staton
636 Palmer Drive
Panford, North Carolina 27330
(H) 919-775-5591
(O) 919-775-5616

REVENUE LAWS SUBCOMMITTEE

SALES AND USE TAXES

MEMBERSHIP - 1984

Rep. Josephus L. Mavretic
Chairman
601 Saint Andrew
Tarboro, North Carolina 27886
(H) 919-823-7419
(O) 919-823-0366

Rep. Murray P. Pool
112 Sycamore Street
P. O. Box 779
Clinton, North Carolina 28328
(H) 919-592-7141
(O) 919-592-2662

Mr. Robert H. Merritt, Jr.
2623 Fairview Road
Raleigh, North Carolina 27608
(H) 919-781-3529
(O) 919-821-4900

Sen. William W. Staton
636 Palmer Drive
Sanford, North Carolina 27330
(H) 919-775-5591
(O) 919-775-5616

LRC member responsible for study: Senator William N. Martin

Staff: Sabra J. Faires, Legislative Services Office,
Bill Drafting Division

David Crotts, Legislative Services Office,
Fiscal Research Division

Ada B. Edwards, Committee Clerk

Appendix C
GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1983

SENATE BILL 156

Short Title: Up Fed. Retirement Pay Exclusion. (Public)

Sponsors Senator Jenkins.

Referred to: Finance.

March 3, 1983

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE AMOUNT OF FEDERAL RETIREMENT PAY EXCLUDED
FROM GROSS INCOME.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-141(b)(14) is amended by deleting
the phrase "three thousand dollars (\$3,000)" and inserting in
lieu thereof the phrase "five thousand dollars (\$5,000)".

Sec. 2. This act is effective for taxable years
beginning on or after January 1, 1983.

10

11

12

13

14

15

16

17

18

19

20

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1983

SENATE BILL 156
Committee Substitute Adopted 6/28/84

2

Short Title: Up Fed. Retirement Pay Exclusion. (Public)

Sponsors: Senator

Referred to: Ways and Means.

March 3, 1983

1 A BILL TO BE ENTITLED

2 AN ACT TO PROVIDE AN ADDITIONAL EXCLUSION FROM INCOME FOR FEDERAL
3 CIVIL SERVICE AND MILITARY RETIREES WHO ARE AGED SIXTY-FIVE OR
4 OVER.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 105-141(b)(14) and (18) are each
7 amended by adding a new sentence to read:

8 "A taxpayer who qualifies for this exclusion and is aged 65 or
9 over as of the last day of the taxable year shall receive an
10 additional exclusion of up to two thousand dollars (\$2,000)."

11 Sec. 2. This act is effective for taxable years
12 beginning on or after January 1, 1985..

13

14

15

16

17

18

19

20

21

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1983

H

I

HOUSE BILL 1002

Short Title: Sales Tax Refund to School Boards. (Public)

Sponsors: Representatives Seymour; Keesee-Forrester, Gist,
Jarrell, Coble, Grimsley, Mavretic, DeVane, J.W. Crawford,*
Referred to: Finance.

May 4, 1983

1 A BILL TO BE ENTITLED

2 AN ACT TO ALLOW LOCAL BOARDS OF EDUCATION TO OBTAIN REFUNDS OF
3 SALES AND USE TAXES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 105-164.14(c) is amended by changing
6 the period at the end of the subsection to a comma and adding the
7 phrase "and local boards of education".

8 Sec. 2. This act shall become effective July 1, 1983,
9 and shall apply to sales and use taxes paid on or after that
10 date.

11 -----

12 *Additional Sponsors: Hayden.

13

14

15

16

17

18

19

20

21

Appendix D

Speakers at Committee Meetings

<u>Name</u>	<u>Subject of Presentation</u>
Ron Aycock N. C. Association of County Commissioners	Intangibles and inventory taxes
Myron Banks N. C. Attorney General's Office	U. S. Supreme Court Decision in <u>Bacchus Imports, Ltd.</u>
Jim Carpenter Charlotte/Mecklenburg Chamber of Commerce	Intangibles and inventory taxes
James M. Culberson, Jr. Banker's Association First National Bank of Randolph County	Intangibles tax
William Elmore Chairman, N.C.T.M.A.	Intangibles and inventory taxes
Tom Frymire Seaboard System Railroad Company Jacksonville, Florida	Sales tax on diesel fuel used by railroads
Ray Graichen N. C. Committee To Repeal Intangibles Tax	Intangibles tax
Burke Haywood N. C. Vending Association	Sales tax on items sold in vending machines
David Henderson N. C. Vending Association	Intangibles and inventory taxes
John Houser Southern National Bank	Intangibles tax
Lester J. Kurzweil	Fatten trusts

<u>Name</u>	<u>Subject of Presentation</u>
Robert Koppenhoefer	General tax structure
Paul Lawler N. C. Citizens for Business and Industry	Intangibles and inventory taxes
Richard Levis N. C. Committee to Repeal Intangibles Tax	Intangibles tax
Mike Olson N. C. Hotel and Motel Association, Inc.	Local occupancy tax
H. Edgar Pray (By letter)	Intangibles tax
Fran Preston N. C. Retail Merchants Association	Inventory tax
Jan Ramquist League of Women Voters	Intangibles and inventory taxes
Larry Stegall N. C. Funeral Directors Association	Sales tax on funeral expenses
A. W. Turner Hearing Officer ABC Commission	ABC Tax Statutes
Alvah Ward N. C. Department of Commerce	Inventory tax
Sarah D. Williamson	Intangibles tax
Leigh Wilson N. C. League of Municipalities	Intangibles tax
Orville Wright Black and Decker, (U.S.), Inc.	Property tax on transshipped goods in a warehouse

